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REMARKS

Claims 3, 11, 12, 13, 14, 17, 18, 19, 20, 22, 30, 31, 32, 34, 35, 36, 44, 47, 48, and 49 have been cancelled. Claims 37-39 and 40-43 have been amended. New claims 50-57 have been added. Claims 1, 2, 4-10, 15-16, 21, 23-29, 37-43, and 50-57 are now pending in the application. No new matter has been added by amendment. Reexamination and reconsideration of the claims as amended are respectfully requested.

Claim Rejections – 35 USC § 112, second paragraph

The Examiner rejects claims 3, 11-13, 18-20, 22, 30-32, and 47-49 under 35 U.S.C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicants traverse the rejection.

The Examiner rejects claims 3 and 22. Claims 3 and 22 have been cancelled.

The Examiner rejects claims 11 and 30, and dependent claims 12-13 and 31-32. Claims 11, 12, 13, 30, 31, and 32 have been cancelled.

The Examiner rejects claims 18 and 47, and dependent claims 19-20 and 48-49. Claims 18, 19, 20, 47, 48, and 49 have been cancelled.

The Examiner states that the dependent claims cited in this rejection fail to further limit the claims from which they depend. The Examiner suggests that the claims be placed in a product –by-process format. New claims 50-57 reflect that suggestion. The Examiner also suggests that the claims should be drafted in terms of methods of making a plant by comprising transforming the exemplified plant of claim 2 or 21. New claims 54-57 reflect that suggestion.

Claim Rejections – 35 USC § 112, first paragraph

The Examiner rejects claims 3, 9-20, 22, 28-32, 34-44 and 47-49 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. The Applicants traverse the rejection. Claims 3, 11, 12, 13, 14, 17, 18, 19, 20, 22, 30, 31, 32, 34, 35, 36, 44, 47, 48, and 49 have been cancelled. Claims 37, 38, 39, 40, 41, 42, and 43 have been amended. New claims 50-57 have been added.

The Examiner rejects claims 11, 15-16, 30, 34-35 and their dependent claims and states that the claims "are broadly drawn to any transgenic plant which contains any heterologous transgene of any sequence conferring any trait, and methods of making and using the transgenic plants." The Examiner rejects claims 3, 18-20, 22, and 47-49 and their dependent claims and states that the claims "are broadly drawn to any 'single gene conversion' plant comprising one or more traits including male sterility introgressed into the claimed variety by backcrossing or other traditional means, and methods of using these plants." The Examiner states that "no guidance has been provided for the introgression of any single trait from a multitude of non-disclosed and uncharacterized parentals into the claimed variety, wherein said introgression should result in successful expression of the desired trait but should not interfere with the expression of the remaining traits whose combination confers patentability to the instantly exemplified variety, and which introgression should not introduce unwanted linked genetic material into the exemplified cultivar which would disrupt its patentably unique genetic complement."

Claims 3, 11, 12, 13, 18, 19, 20, 22, 30, 31, 32, 47, 48, and 49 have been cancelled to place the claims in the method and product by method format requested by the Examiner. New claims 50, 52, 54 and 56 are drawn to methods, while their depending claims are drawn to the products produced by those methods. The claims include the well known methods of producing backcross and transgenic conversion plants. The product by process claims are further limited by specified conversion or transgenic traits, which include the traits of insect resistance, herbicide resistance, disease resistance, waxy starch, and male sterility.

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While the Examiner states that the claims encompass "any transgenic plant which contains any heterologous transgene of any sequence conferring any trait", the Applicants point out that it is not claiming so broadly as to claim any maize plant, regardless of source, comprising those traits. The Applicants are claiming PH581 or a limited set of plants derived therefrom that have obtained significant genetic contribution from PH581.

Applicants respectfully point out that examples of transgenes, genes, and traits that can be backcrossed into the PH581 are given in the application on page 21, lines 16-34, and also on page 23, line 20, through page 33, line 4. In order to expedite prosecution new claims 51 and 55 list the type of traits that may be conferred by backcross conversions and transgenes. Claim 51 also specifies that PH581 is used at least twice as a recurrent parent in the development of a backcross conversion plant. Breeders, by using molecular markers, may obtain up to 98% genome identity between the backcross conversion and the recurrent parent after two backcrosses. See Marker-assisted Selection in Backcross Breeding, Openshaw, S.J. et al. Marker-assisted selection in backcross breeding. In: Proceedings Symposium of the Analysis of Molecular Data, August 1994, pp. 41-43. Crop Science Society of America, Corvallis, OR (1994) included as Appendix A. Inbred PH581 transformed to comprise a transgene is also easily identifiable through the use of molecular markers. The transgenic version of PH581 would have the same molecular profile as PH581, with the possible exception of a marker used in the profile that is located at the site of transgene insertion. However, in this case, the plethora of other identical markers would identify the line as a transgenic variant of PH581.

Applicants point out to the Examiner that, at the present time, it is not typical that a transgene be incorporated into each newly developed line, such as PH581, by direct transformation. Rather, the more typical method used by breeders of ordinary skill in the art is to incorporate the transgene into a new line by taking an already transformed plant line and using it as a donor line to produce a backcross conversion. Thus, the well established method of

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backcrossing has been used and is the most common means of introgressing the claimed traits into new material.

In the specification on page 4, lines 7-13, it states, "Backcrossing can be used to transfer a specific desirable trait from one inbred or source to an inbred that lacks that trait. This can be accomplished, for example, by first crossing a superior inbred (recurrent parent) to a donor inbred (non-recurrent parent), that carries the appropriate gene(s) for the trait in question. The progeny of this cross is then mated back to the superior recurrent parent followed by selection in the resultant progeny for the desired trait to be transferred from the non-recurrent parent." The method of backcrossing genes into an inbred maize plant is well known and well understood to one of ordinary skill in the art. The method has been successfully used since the 1950's (see pages 585-586 of Wych, 1988 included in the Information Disclosure Statement). In the specification, on page 21, lines 16-34, there is a description of how to backcross traits into PH581, which includes the claimed traits. Examples of how one of ordinary skill in the art can transfer a gene conferring a qualitative trait into a variety through backcrossing is demonstrated by the fact that the commercial market now distributes a multitude of products produced in this manner. Such conversion lines are easily developed without undue experimentation. Poehlman et al. (1995) on page 334, submitted in the information disclosure statement, states that, "A backcross-derived inbred line fits into the same hybrid combination as the recurrent parent inbred line and contributes the effect of the additional gene added through the backcross." Wych (1988) on page 585-86, also submitted in the information disclosure statement, discusses how the male sterility trait is routinely backcrossed into an inbred line and how this is used to produce a sterile/fertile blend of an F1 hybrid in order to reduce seed production costs. In fact, many commercial products are produced in this manner, and those of ordinary skill in the art consider the F1 hybrid produced with the male sterile (backcross conversion) inbred to be the same variety as the F1 hybrid produced with the non-backcross conversion inbred.

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As a result of the repeated use of the recurrent parent, the backcross conversion has many genetic alleles in common with the recurrent parent. Thus, genetic analysis may be used as a means of identifying the backcross conversion. The declaration attached as Appendix B explains how genetic analysis was used to identify backcross conversion inbreds of PH581. The F1 hybrid made with a transgenic version or a backcross conversion of PH581 is also identifiable by the use of genetic markers, because the hybrid would contain one set of alleles from each parent. The Examiner also states that the Applicants have not characterized parentals. Applicants respectfully disagree. In a backcross conversion the deposited material is repeatedly used as the parental line.

The Examiner rejects claims 9-10, 12-17, 28-32, and 34-44 and states that the claims "are also broadly drawn to any plant produced by crossing the exemplified inbred line with any of a multitude of non-exemplified plants, or any descendants of the exemplified cultivar obtained by using that cultivar as one parent in a series of undisclosed crosses for an undisclosed number of generations and with undisclosed breeding partners."

The Examiner rejects claims 9, 10, 28, and 29, that claim the F1 hybrid seed and F1 hybrid plant made with PH581 as a parent. Applicants note that a claim to the F1 hybrid made with a deposited inbred was expressly acknowledged without reservation by the United States Supreme Court in *J.E.M. Ag. Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.*, 60 USPQ 2d 1865, 1873 (S.Ct. 2001), when the Supreme Court wrote, "...a utility patent on an inbred plant line protects the line as well as all hybrids produced by crossing that inbred with another plant line." Further, one of ordinary skill in the art would know how to cross PH581 with another maize plant. The F1 hybrid seed and plant produced using PH581, regardless of the other maize plant used, is identifiable because it will have one set of alleles coming from PH581. One of ordinary skill in the art would be able to run a molecular profile on PH581 and the F1 hybrid and be able to identify the F1 hybrid as being produced from PH581. Seed pericarp tissue, which is solely maternal in origin, can be used to discern the maternal or paternal

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origin of the allele sets if necessary. See page 16 of Poethig, R.S. 1982. Maize, the plant and its parts. In: W.F. Sheridan (Ed.) Maize for Biological Research, University of North Dakota Press, Grand Forks, ND. pp. 9-18, submitted as Appendix C.

As stated in the specification on page 16, lines 8-23, there are many laboratory-based techniques available for the analysis comparison and characterization of plant genotype such as Restriction Length Polymorphisms (RFLPs) and Simple Sequence Repeats (SSRs). Such techniques may be used to identify whether or not PH581 was used to develop a hybrid. The Applicants also submit to the Examiner the journal article by Berry et al. (2002). This article discusses the probability of identifying the parents of the hybrid by SSR data when neither parent is known and without the use of pericarp analysis. A copy of the article by Berry et al. is attached to this Amendment and Request for Reconsideration as Appendix D. The results of the experiment showed that using 100 SSR loci markers resulted in correct parental ranking of inbreds for 53 out of 54 hybrids. Applicants also point out that any breeder of ordinary skill in the art will know the identity of both parents used to produce a hybrid.

The Examiner rejects claims 12-17, 30-32, and 34-44. Claims 12-14, 17, 30-32, 34-36, and 44 have been cancelled. Claims 15, 16, 28, and 29 remain pending and are to methods of developing a maize plant through the utilization of PH581. Applicants point out that anyone of skill in the art would know how to utilize the well established breeding methods with PH581. Description of such occurs throughout the specification and descriptions can also be found in introductory plant breeding books. Claims 40-43 remain pending and have been amended. Claim 40 is to the method of producing a first generation PH581-derived hybrid maize plant. Applicants believe the patent office has previously indicated this claim scope as allowable and requests that this rejection be withdrawn. Claim 41 is to the first generation PH581-derived hybrid maize plant produced by the method of claim 40. The first generation hybrid, or F1 hybrid, is identifiable through both breeding records and molecular marker techniques as discussed above. Claim 42 is to the method of selfing the first generation hybrid

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PH581 for successive filial generations. This is a basic and well known breeding methodology, and the use of this methodology with PH581 is described in the specification on page 21, lines 1 to 15.

Claim 43 is to plants derived from claim 42 that have at least 50% of their genetics derived from PH581. These claimed plants are clearly described by their method of production, which requires the use of PH581. Such plants must be produced through the use of PH581 and the Examiner acknowledges that PH581 is clearly identified. Further, Applicants have added the limitation of at least 50% inheritance from the PH581 side of its pedigree to further emphasize the significant influence of PH581 in the claimed product. Genetic inheritance has been accepted by both courts and governmental agencies as an accurate and reliable means of identification. In paternity cases courts routinely compel genetic testing of putative fathers to establish paternity, and federal law mandates that states have laws requiring that genetic test results be admissible in such cases without the necessity for foundation testimony or other proof. 42 U.S.C. 666(a)(5)(F)(iii)(Supp. V 1999). In such cases, a child will, on average, inherit 50% genetic contribution from each parent. Similarly, the plants produced by the method of claim 42 will also, on average, inherit 50% genetic contribution from each parent.

Applicants request that the Examiner examine the sufficiency of description of claim 43 with all of its claim limitations, including the limitation that the progeny be produced by the method of claim 42, with the use of PH581 and retaining at least 50% genetic contribution from PH581. One of ordinary skill in the art would know how to cross PH581 to develop an F1 hybrid and also how to self plants derived from the cross with PH581. In *Ex parte Parks*, 30 USPQ 2d 1234 (B.P.A.I. 1994), the Board of Appeals stated, "Adequate description under the first paragraph of 35 U.S.C. 112 does not require *literal* support for the claimed invention. Rather, it is sufficient if the originally-filed disclosure would have conveyed to one having ordinary skill in the art that an appellant had possession of the concept of what is claimed." Emphasis added. In *J.E.M. Ag. Supply*, the Supreme Court also acknowledged the value of a newly developed

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line in further breeding, when it stated that, "...a breeder can use a plant that is protected by PVP certificate to 'develop' a new inbred line while he cannot use a plant patented under §101 for such a purpose." Id. at 1873.

The Examiner cites the Federal Circuit as stating that the written description of an invention "requires a precise definition, such as by structure, formula, [or] chemical name, of the claimed subject matter sufficient to distinguish it from other materials." *University of California v. Eli Lilly and Co.*, 119 F. 3d 1559, 1568; 43USPQ2d 1398, 1406 (Fed. Cir. 1997). The Applicants have fulfilled this written description requirement through the seed deposit of PH581. As described in the specification, lines 8-23 on page 16, the seed deposit allows one of ordinary skill to run a molecular profile of PH581. Applicants submit the molecular profile of inbred line PH581 in the declaration of Dinakar Bhatramakki attached hereto as Appendix E. Further Applicants amend the specification to include such SSR profile. Such SSR profile is not new matter, as it is an inherent feature of inbred line PH581, a representative sample of which has been deposited with the ATCC. For example, see Ex parte Marsili, Rosetti, and Pasqualucci, 214 USPQ 904 (1972), in which the Patent and Trademark Office Board of Appeals held that it was not new matter to amend the structure of a compound when a more refined analytic investigation showed a corrected formula. The Board, relying on well established cases of In re Nathan et al., 51 CCPA 1059, 328 F.2d 1005, 140 USPQ 601 (1964); In re Sulkowski, 487 F.2d 920, 180 USPQ 46 (CCPA 1973); Spero v. Ringold, 54 CCPA 1407, 377 F.2d, 652, 153 USPQ 726 (1967), and Petisi et al. v. Rennhard et al., 53 CCPA 1452, 363 F. 2d 903, 150 USPQ 669 (1966) concluded that the "products described, exemplified and claimed by Appellants inherently had and have now the structure given in the amendment in question. Consequently, the changes made in this amendment do not constitute new matter. Marsili at 906. Similarly, in the present case, inbred line PH581 inherently had and still has the SSR marker profile being added. One of ordinary skill in the art can use molecular markers to identify PH581, a transgenic version of PH581, a backcross

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conversion of PH581 and the F1 plant of the transgenic version and backcross conversion of PH581.

The Applicants would also like to point out that the specification also identifies PH581 with phenotypic descriptions. Various examples of breeding methods, transgenes, transformation procedures, and F1 hybrid production are given in the specification. The mean values of traits for numerous F1 plants, wherein PH581 is the parent and other numerous maize plants are the second parent, are given in Tables 3A-3C, pages 39-41. Tables 4A-4D, on pages 42-48, contain mean values of traits to a specific F1 wherein PH581 is a parent.

The Examiner also stated, in reference to *Lilly*, that, "the court also concluded that 'naming a type of material generally known to exist, in the absence of knowledge as to what that material consists of, is not a description of that material. *Id.*' This is not the case here. Applicants have created a novel line and seeks a scope of protection that adequately protects the invention. Applicants believe that the derivatives, variants and closely related progeny easily and routinely created by use of this newly developed line are encompassed within the scope of the invention of the variety itself. These derivatives, variants and closely related progeny derive direct and substantial benefit from Applicants' work and deserve to be included within the scope of the claims. Thus, the issue here is patent scope around what has already been created (and deposited) by Applicants. The fact that the progeny have not been created does not prevent them from being protected in this manner. As stated in MPEP 2163 (3) (a), "An invention may be complete and ready for patenting before it has actually been reduced to practice."

In Enzo vs. Gen-Probe, U.S. State Court of Appeals for the Federal Circuit, 63 USPQ 2d 1609, the court reversed its prior decision regarding the insufficiency of the deposited genetic probes to meet the written description requirement. In so holding, the court stated, "As the deposited sequences are about 850, 8500, and 1300 nucleotides long, ..., there are at least hundreds of subsequences of the deposited sequences, an unknown number of which might also meet the claimed hybridization ratio. Moreover, Enzo's expert, Dr. Wetmur,

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stated that 'astronomical' numbers of mutated variations of the deposited sequence also fall within the scope of those claims, and that such broad claim scope is necessary to adequately protect Enzo's invention from copyists who could otherwise make minor change to the sequence and thereby avoid infringement while still exploiting the benefits of Enzo's invention. The defendants assert that such breadth is fatal to the adequacy of the written description. On the other hand, because the deposited sequences are described by virtue of a reference to their having been deposited, it may well be that various subsequences, mutations, and mixtures of those sequences are also described to one of skill in the art. We regard that question as an issue of fact...."

The issue of whether the progeny as now claimed satisfies the written description requirement is also an issue of fact. PH581 is a unique inbred, as evidenced by the morphological and physiological traits given in Table 1, pages 18-20, of the application. Routinely used molecular techniques, discussed on page 16, lines 8-23 of the application, can be used to verify whether PH581 is within the pedigree of a claimed plant. One of ordinary skill in the art would also know from breeding records if PH581 were utilized in the development of a claimed plant.

As stated in the written description guidelines "an applicant shows possession of the claimed invention by describing the claimed invention with all its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. Possession may be shown in a variety of ways, including...by describing distinguishing identifying characteristics sufficient to show that the applicant was in possession of the claimed invention." 1255 Official Gazette 140 (Feb. 5, 2002). Phenotypic traits are used in the text of the specification. Genetic and other molecular profiles may be obtained from the deposit. Once a line is identified as being PH581, one of ordinary skill in the art would also easily be able to determine which progeny they develop from that line fall within the scope of the claims.

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Within the plant breeding arts breeders use pedigree as a means to characterize lines in reference to their progenitors. It is unambiguous and easily traceable through breeding records that are maintained by any breeder of ordinary skill in the art. It indicates that a line fewer crosses away from a starting line will be, as a whole, more highly related to the starting line. Thus, the work of the original breeder in developing the starting line will be retained in the closely related progeny. More specifically, traits and linkage groups present in PH581 will be retained in progeny that are within one outcross from PH581. Applicants submit that characterization of the progeny of PH581 by virtue of their filial relationship is a clear and acceptable means of identification. Not only are filial descriptions used by breeders to evaluate materials for use in their breeding programs, but it is standard practice within the plant breeding industry for universities and companies that license inbred maize lines to retain a royalty from lines developed through the use of their inbreds. Those royalties are, in almost all cases, based on the filial relationship between the licensed inbred used in breeding and the progeny line commercialized. This is further evidence that those of ordinary skill in the art of plant breeding describe progeny in terms of pedigree and find it an acceptable means of characterization.

As noted in the specification, the development of an inbred line is a time consuming and labor intensive activity. On average, between 10,000 to 20,000 lines are created and screened in order to develop any maize inbred line for which the Applicants file a patent application. Once developed, the inbred line is useful for two purposes: (1) to make commercial hybrids, and (2) as a source of breeding material for the development of new inbreds that retain the original inbred's desired characteristics. A breeder desiring to make a line with similar traits to PH581 would be greatly advantaged by being able to use PH581 as starting material. This is because the linked genes arranged through Applicants' breeding efforts, and fixed in PH581, can be maintained in the progeny of PH581 by a breeder of ordinary skill in the art. The end result is the development of an inbred line with substantial benefit from the Applicants' work.

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PH581-derived progeny are described by the fact that PH581 is utilized in a breeding program to make the PH581-derived progeny. PH581 gives genetic contribution to the PH581-derived progeny, and the genetics of PH581 are described by ATCC deposit of PH581 seed. By limiting the progeny to one outcross away from PH581 and by limiting the progeny to those that contain at least 50% of their genetics from PH581, the Examiner's concern that the progeny may be only distantly related to PH581 is addressed.

Applicants would also like to emphasize that PH581 cannot be derived through any other means than through PH581 seed and plant, nor can the influence of PH581 on the progeny be removed from a line within one outcross of PH581. To view this claim as one of breadth ignores an essential limitation of the claim; that only a plant developed through the use of PH581 is within the scope of the claim. Such a plant could not be obtained without the use of PH581, so the claim would not in any way restrict the work of a breeder that did not in fact use PH581. Compliance with the written description requirement is essentially a fact based inquiry that will "necessarily vary depending on the nature of the invention claimed." *Vas-Cath v. Mahurkar*, 935 F. 2d 1555 (citing *In re DiLeone*, 436 F2d. 1404, 1405). Thus, the compliance with the written description requirement must be judged in view of this limited scope of the progeny claims. As amended, the claims are drawn to only a limited scope of progeny, progeny whose existence is the direct result of the use of PH581. This is in harmony with the statement in section 2163 of the MPEP that "the written description requirement promotes the progress of the useful arts by ensuring inventions are adequately described in the specification in exchange for the right to exclude." That quid pro quo of patent law has been met by the Applicants in the present case, and to use written description to deny adequate patent protection would be contrary to the stated purpose of the written description requirement.

The Examiner also rejects claims 37-39 under 35 USC § 112, first paragraph. Claims 37-39 have been amended for clarification purposes. Claims 37-39 are directed to growing out an F1 hybrid in which PH581 is a parent and

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searching for PH581 inbred seed. Due to the imperfect process of seed production parent seed can sometimes be contained in the hybrid seed bag. This claim covers the method of searching for inbred PH581 seed within a bag of hybrid seed. The method is clearly described in the specification on page 5, line 21 through line 7 on page 6. One of ordinary skill in the art can practice such a method without undue experimentation. The Applicants request that the Examiner withdraw his rejection to claims 37-39.

The Examiner rejects claims 3, 9-20, 22, 28-32, 34-44, and 47-49 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants traverse the rejection.

With the exception of the arguments pertaining to Hunsperger et. al., Kraft et. al. and Eshed et. al., the Examiner provides nearly identical arguments for the 112, first paragraph, lack of enablement rejection as those provided for the 112, first paragraph, lack of written description rejection addressed above.

To avoid repetition, Applicants respectfully request that the Examiner consider the arguments made in response to the 112, first paragraph, lack of written description rejection as also applicable to the 112, first paragraph, lack of enablement rejection. In addition, the Applicants directly address the arguments raised by the Examiner that relate to Hunsperger, Kraft and Eshed.

The Examiner has cited Hunsperger, Kraft and Eshed and stated that they "teach that it is unpredictable whether the gene or genes responsible for conferring a phenotype in one plant genotypic background may be introgressed into the genetic background of a different plant, to confer a desired phenotype in said different plant." The Examiner states that, "Hunsperger et al teach that the introgression of a gene in one genetic background in any plant of the same species, as performed by sexual hybridization, is unpredictable in producing a single gene conversion plant with a desired trait (see, e.g., column 3, lines 26-

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46)." Applicants' respectfully disagree that this is what is taught by Hunsperger et al. Hunsperger et al. teaches that a gene that results in dwarfism of a petunia plant can be incorporated into other genetic backgrounds of the petunia species (See column 2, line 67 to column 3, lines 1-4). Hunsperger et al. merely discusses the level of the expression of that gene differed in petunia plants of different genetic backgrounds. Hunsperger et al. succeeded in incorporating the gene into petunia plants of different genetic backgrounds. Therefore, Hunsperger et al. support the fact that one can introgress a specific trait into a recurrent parent through backcross conversion. Applicants' specification provides ample disclosure of starting materials such as maize inbred PH581, a discussion of traditional breeding methods, and examples of transgenes and naturally occurring genes that may be used in such methods. Hallauer et al. (1988) on page 472, submitted in the information disclosure statement, state that, "For single gene traits that are relatively easy to classify, the backcross method is effective and relatively easy to manage." The teaching of Hallauer relates specifically to corn breeding and com inbred line development, while Hunsperger et al relates to petunia.

The Examiner goes on to state that, "Kraft et al. teach that linkage disequilibrium effects and linkage drag prevent the making of plants comprising a single gene conversion, and that such effects are unpredictably genotype-specific and loci-dependent in nature (see, e.g., page 323)." Applicants disagree that the article states such points. Kraft et al. make no mention of a plant comprising a single gene conversion. Further, Kraft et al. relates to linkage disequilibrium and fingerprinting in sugar beet, a crop other than maize. Kraft et al. state, on p. 326, first column, "The generality of our results for other crop species needs to be investigated."

It is understood by those of skill in the art that backcross conversions are routinely produced and do not represent a substantial change to a variety. The World Seed Organization, on its web site, writes, "The concept of an essentially derived variety was introduced into the 1991 Act of the UPOV Convention in order to avoid plagiarism through mutation, multiple back-crossing and to fill the

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gap between Plant Breeder's Rights and patents." As determined by the UPOV Convention, essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering. The commercialization of an essentially derived variety needs the authorization of the owner on the rights vested in the initial variety." International Convention for the Protection of New Varieties of Plants, as amended on March 19, 1991, Chapter V, Article 14, Section 5(c), (emphasis added). A copy of the relevant portion of the UPOV Convention and the World Seed Organization web site is attached as Appendix F.

An example of how one of ordinary skill in the art can transfer a gene conferring a qualitative trait into a variety through backcrossing is demonstrated by the fact that the commercial market now distributes a multitude of products produced in this manner. Such conversion lines are easily developed without undue experimentation. Poehlman et al. (1995) on page 334, submitted in the information disclosure statement, states that, "A backcross-derived inbred line fits into the same hybrid combination as the recurrent parent inbred line and contributes the effect of the additional gene added through the backcross."

The Examiner goes on to state that, "Eshed et al. teach that in plants, epistatic genetic interactions from the various genetic components comprising contributions from different genomes may effect quantitative traits in a genetically complex and less than additive fashion (see, e.g., page 1815). The Applicants would like to point out on page 1816, column 1, lines 1-5 of the Eshed et al. article it states, "Recent studies that detected epistasis of selected QTL in Drosophila (Long et al. 1995), soybean (Lark et al. 1995) and maize (Doebley et al. 1995; Cockerham and Zeng 1996) did not show a less-than-additive trend." Emphasis added. Applicants also add that transferring a qualitative trait does not require undue experimentation. Please note Hallauer et al. (1988) on page 472, submitted in the information disclosure statement, which states, "For single gene traits that are relatively easy to classify, the backcross method is effective and relatively easy to manage." Claim 51 has been amended to expedite

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prosecution. In claim 51, the genes transferred into PH581 are now limited to the traits of herbicide resistance, insect resistance, disease resistance, male sterility, and waxy starch.

The Examiner alleges that Applicants' traversal of the art rejection on pages 7-8 of the amendment of 12 August 2002 "admits that outcrossing the exemplified inbred to another undisclosed plant is unpredictable." Applicants' statements on pages 7-8 of the amendment of 12 August 2002 make the point that it is not possible to use the cited prior art line 87DIA4 to produce a line that is the same as PH581 or any of the claimed progeny of PH581. Applicants did not in any way state that it would be unpredictable to introgress a gene into PH581 through backcross breeding techniques or transformation.

In light of the amendments to the claims and the foregoing arguments the Applicants request reconsideration of the rejection under the first paragraph of 35 U.S.C. 112.

Claim Rejections under 35 U.S.C. § 102 and 103

The Examiner states that, "Claims 14 and 43 remain rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson (U.S. Patent No. 5,824,849)." Applicants traverse the rejection.

Applicants have cancelled claim 14. Applicants have amended claim 43. Claim 43 is limited to progeny produced by the method of claim 42, which requires the use of PH581, and is further limited to progeny deriving at least 50% genetic contribution from PH581.

The Examiner has made several objections which relate to written description and these were addressed in the response to the written description section above. The Examiner then makes the statement that "It is unclear and unlikely that the genetic material that remains in the first generation progeny retain the unique genetic and morphological complement of the exemplified inbred...Furthermore, since the *individual* traits exhibited by the exemplified inbred are not unique to the exemplified inbred, either by degree of expression

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nor genetic means of inheritance, a descendent of the exemplified inbred containing no genetic material from it could still exhibit these individual traits, and could still possess the same genetic means for conferring these traits as did the exemplified inbred."

Applicants respond that such a described inbred is not within the scope of the claim as amended, because it would not have at least 50% genetic contribution from PH581. Further, the benefit of the invention relates not to plants comprising these traits in general, but plants that comprise these traits through the use of PH581 and the work of Applicants in fixing these traits and linkage groups in PH581. Nothing in claim 43 would restrict a breeder from making, using or selling a line with all of the same morphological and physiological characteristics of PH581 or the plant of claim 43, so long as such plant was created without the use of PH581.

Further, as evidenced by the declaration of Stephen Smith submitted as Appendix G, both PH581 and its progeny within the scope of claim 43 are distinct from 87DIA4 taught in U.S. Patent No. 5,824,849.

In light of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection to claims 1-49 under 35 U.S.C. 102 (b) and 103(a).

Claims 1, 2, 4-10, 15-16, 21, 23-29, 37-43, and 50-57 are now pending in the application. The amendments made herein do not in any way change the claim scope which the Applicants believe is allowable but is meant to hasten the issuance of the patent.

CONCLUSION

Applicants submit that in light of the foregoing amendments and the remarks, the claims 1, 2, 4-10, 15-16, 21, 23-29, 37-43, and 50-57 are in condition for allowance. Reconsideration and early notice of allowability is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

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Marker-assisted Selection in Backcross Breeding

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Abstract. The backcross breeding procedure has been used widely to transfer simply inherited traits into elite genotypes. Genetic markers can increase the effectiveness of backcrossing by 1) increasing the probability of obtaining a suitable conversion, and 2) decreasing the time required to achieve an acceptable recovery. Simulation and field results indicated that, for a genome consisting of ten 200-cM chromosomes, basing selection on 40 or 80 markers in 50 BC individuals that carry the allele being transferred can reduce the number of backcross generations needed from about seven to three.

The backcross breeding procedure has been used widely to transfer simply inherited traits into elite genotypes. Usually, the trait being transferred is controlled by a single gene, but highly heritable traits that are more complexly inherited have also been transferred successfully by backcrossing; for example, maturity in maize (Rinke and Senz, 1961; Shaver, 1976). Today, backcrossing is being used to transfer genes introduced by such techniques as transformation or mutation into appropriate germplasm.

Several plant breeding textbooks give good descriptions of the backcross procedure (Allard, 1960; Fehr, 1987). A donor parent (DP) carrying a trait of interest is crossed to the recurrent parent (RP), an elite line that is lacking the trait. The F_1 is crossed back to the RP to produce the BC₁ generation. In the BC₁ and subsequent backcross generations, selected individuals carrying the gene being transferred are backcrossed to the RP. The expected proportion of DP genome is reduced by half with each generation of backcrossing. Ignoring effects of linkage to the selected DP allele being transferred, the percentage recurrent parent (%RP) genome expected in each backcross generation is calculated as:

$$\%RP = 100 [1 - (0.5)^n]$$

where n is the number of backcrosses.

Backcrossing of selected plants to the RP can be repeated each cycle until a line is obtained that is essentially a version of the RP that includes the introgressed allele. After six backcrosses, the expected recovery is >99% (Table 1).

Until recently, discussions of the recovery of the RP genome during backcrossing have emphasized the expected values for

%RP shown in Table 1, and have largely ignored the genetic variation for %RP that exists around the expected mean. With the development of genetic markers capable of providing good genome coverage, there has been interest in taking advantage of that variation to increase the efficiency of backcrossing.

Selection for RP marker alleles can increase greatly the effectiveness of backcross programs by allowing the breeder to 1) select backcross plants that have a higher proportion of RP genome, and 2) select backcross individuals that are better conversions near a mapped donor allele being transferred (i.e., select for less linkage drag). Expressed in practical terms, using genetic markers to assist backcrossing can 1) increase the probability of obtaining a suitable conversion, and 2) decrease the time required to achieve an acceptable recovery.

Issues to consider when planning a marker-assisted backcross program include 1) the time advantage of using markers to assist backcrossing, 2) the number of markers needed, and 3) the number of genotypes to evaluate. In this report, we use results from previous literature, computer simulation, and empirical studies to provide some guidelines.

Table 1. Expected recovery of recurrent parent (RP) genome during backcrossing, assuming no linkage to the gene being transferred.

Generation	%RP
F_1	50.0000
BC ₁	75.0000
BC ₂	87.5000
BC ₃	93.7500
BC ₄	96.8750
BC ₅	98.4375
BC ₆	99.2188
BC ₇	99.6094

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Analysis of Molecular Marker Data

Appendix A

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Materials and methods

The maize genome was the model for the simulation. The simulated genome contained ten 200-cM chromosomes. Simulation of crossing over was based on a Poisson distribution with a mean of 2.0 ($\lambda = 2$) (Hanson, 1959), which, on average, generated one cross over for every 100-cM length. The simulations reported here assume no interference. Codominant genetic markers were evenly distributed in the genome and sites of the donor gene were randomly assigned to genome locations.

Simulations were conducted with the following parameters:

Number of progeny: 100 or 500.

Backcross generations: BC₁, BC₂, and BC₃.

Number of markers: 20, 40, 80, or 100.

Number selected to form the next BC generation: 1 or 5.

Selection was based on 1) presence of the donor allele and 2) high %RP. %RP was calculated as the average of the (one or five) selected individuals. Values presented are the mean of 50 simulations.

Results

In the computer simulation study, all methods modeled greatly increased the speed of recovering the RP genome compared to the expected recovery with no marker-assisted selection (compare Tables 1 and 2). At least 80 markers were required to recover 99% of the RP genome in just three BC generations (Table 2). Use of at least 80 markers and 500 progeny allowed recovery of 98% RP in just two BC generations. Response to selection was diminished only slightly by spreading the effort over five selections. Using markers, the number of backcross generations needed to convert an inbred is

reduced from about seven to three.

By the BC₃ generation, there appears to be no practical advantage to using 500 vs. 100 individuals. If the presence of the donor trait in the backcross individuals can be ascertained before markers are genotyped, then only half the number of individuals indicated in the tables will need to be analyzed.

When a small number of markers are used, they quickly become non-informative; i.e., selection causes the marker loci to become fixed for the RP type before the rest of the genome is fully converted (Table 3; Hospital et al., 1992). This situation was most prominent in the larger populations, where a higher selection intensity placed more selection pressure upon the marker loci. Accordingly, it is of interest to consider how closely the estimation of %RP based on markers reflects the actual genome composition. The combination of estimation of %RP based on fewer markers and subsequent selection tends to bias the estimates upward (compare Tables 2 and 3).

The results from the simulation compare well with real field data. In a typical example, 50 BC₁ plants carrying the gene being transferred were genotyped at 83 polymorphic RFLP loci (note that this corresponds to a population size of 100 unselected plants in Tables 2 and 3). The five best BC₁ recoveries had estimated %RP values of 85.9%, 82.7%, 82.0%, 81.4%, and 81.2%. After evaluating 10 BC₁ plants from each selected BC₁, the best BC₁ recovery had an estimated %RP of 94.6%.

Discussion

The simulations (Table 2; Hospital et al., 1992) and our experience indicate that four markers per 200-cM chromosome is adequate to greatly increase the effectiveness of selection in the BC₁. However, using only four markers per 200 cM will likely make it very difficult to map the location of the gene of interest. Adequate summarization of the data is an important

Table 2. Percent recurrent parent genome during marker-assisted backcrossing.

Generation	100 Progeny				500 Progeny			
	No. markers				No. markers			
	20	40	80	100	20	40	80	100
One selected								
BC ₁	84.5	84.5	84.2	88.0	89.9	90.7	90.2	90.5
BC ₂	95.0	95.2	95.8	97.2	96.3	97.7	98.5	98.6
BC ₃	97.4	97.6	98.9	99.2	97.7	98.3	99.4	99.5
Five selected								
BC ₁	82.9	85.1	84.9	84.7	87.7	88.1	88.9	88.9
BC ₂	93.7	95.0	95.8	95.7	95.5	96.8	97.8	97.9
BC ₃	97.1	98.3	98.8	98.9	97.3	98.5	99.3	99.3

Table 3. Estimates of percent recurrent parent genome, based on marker loci.

Generation	100 Progeny				500 Progeny			
	No. markers				No. markers			
	20	40	80	100	20	40	80	100
One selected								
BC ₁	98.7	97.8	95.6	97.2	100.0	99.1	98.6	98.0
BC ₂	100.0	99.8	99.3	99.5	100.0	100.0	99.9	98.2
Five selected								
BC ₁	96.4	96.5	96.2	95.8	100.0	98.5	98.3	98.2
BC ₂	99.9	99.8	99.3	99.1	100.0	100.0	99.9	99.8

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part of a marker-assisted backcross program. Ideally, the markers used can supply data that can be represented as alleles of loci with known map position. Estimation of %RP, mapping the position of the locus of interest, and graphical display of the results (Young and Tanksley, 1989) are all useful in understanding and controlling the specific backcross experiment being conducted.

It appears that, with the use of genetic markers, the portion of the RP genome that is not linked to the allele being transferred can be recovered quickly and with confidence. The recovery of RP will be slower on the chromosome carrying the gene of interest. A considerable amount of linkage drag is expected to accompany selection for the DP allele in a backcross program. For a locus located in the middle of a 200-cM chromosome, the length of the DP chromosome segment accompanying selection is expected to be 126, 63, and 28 cM in the BC₁, BC₂, and BC₃ generations, respectively (Hanson, 1959; Naveira and Barbadilla, 1992). Our observations support the recommendation of Hospital et al. (1992) that preference be given to the selection for recombinants proximal to the allele of interest, but that selection for recovery of the RP elsewhere in the genome also be considered. This two-stage selection can probably be done quite effectively ad hoc by the breeder once the data is adequately summarized; however, Hospital et al.

suggest ways to incorporate the two criteria into a selection index such that each component of selection is assured appropriate weighting.

Use of genetic markers can greatly increase the effectiveness of backcrossing, and they should be used in any serious backcrossing program if resources are available to the breeder.

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Analysis of Molecular Marker Data

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Attorney Docket No. 1334

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mario R. Carlone, Jr. and Stephen W. Noble, Jr. Date: March 11, 2003
Serial No.: 09/758,802 Group Art Unit: 1638
Filed: January 11, 2001 Examiner: David T. Fox
For: "INBRED MAIZE LINE PH581"

Assistant Commissioner for Patents
Washington, D.C. 20231

RULE 132 DECLARATION
OF
DR. STEPHEN SMITH

Sir:

I, Stephen Smith, PhD., do hereby declare and say as follows:

1. I am skilled in the art of the field of the invention. I have a Ph.D. in Biochemical Systematics and Taxonomy of Maize and its Wild Relatives from Birmingham University. I have a M.Sc. in the Conservation and Utilization of Plant Genetic Resources from Birmingham University. I have a Bachelor of Science degree in Plant Sciences from London University. Since 1977 I have been engaged in the development, study and application of molecular markers to genetics, measuring genetic diversity and tracking pedigrees. I commenced this work at North Carolina State University as a post-doctoral research fellow. I have continued my engagement in these studies during my employment by Pioneer Hi-Bred from 1980 until the present. These studies have resulted in numerous scientific articles that have appeared in peer reviewed scientific literature.
2. I have read and understood the Office Action in the above case dated October 11, 2002. This declaration is in response to the Examiner's rejection under, 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Appendix B

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3. I have conducted an analysis of Simple Sequence Repeat, SSR, marker data for base inbred PH581 and six backcross conversions of PH581. The six backcross conversions of PH581 consist of five conversions for the trait of insect resistance and one conversion for the trait of waxy starch.

4. The SSR data for 457 base inbreds and 103 backcross conversion inbreds, including PH581 and the six backcross conversions were used in the analysis. The number of SSR markers for each inbred used in the analysis was between 15 and 87 (mean of 82). The analysis was done as specified in the publication by Berry et al. ("Assessing Probability of Ancestry Using Simple Sequence Repeat Profiles: Applications to Maize Hybrids and Inbreds" Genetics 161:813-824, 2002), with modification as described in Berry et al., (2003); Assessing Probability of Ancestry Using SSR Profiles: Application to maize Inbred lines and soybean varieties. Genetics (in review), a copy of which is attached hereto.

5. The results of the analysis indicated that through the use of SSR markers PH581 was identified to be the recurrent parent of each of the six backcross conversions of PH581 over all the other inbreds in the data set. The probability associated with the identification of PH581 as the recurrent parent of each backcross conversion was calculated as 0.99 or higher in each case.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: March 7th 2003

By:



Stephen Smith

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ASSESSING PROBABILITY OF ANCESTRY USING SIMPLE SEQUENCE REPEAT
PROFILES: APPLICATIONS TO MAIZE INBRED LINES AND SOYBEAN VARIETIES

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Probability of ancestry using SSR

KEY WORDS:

Inbred alleles, Parentage, Pedigree, SSR, Bayes' Rule

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ABSTRACT

Determining parentage is a fundamental problem in biology and in applications such as identifying pedigrees. Difficulties inferring parentage derive from extensive inbreeding within the population, whether natural or planned; using an insufficient number of hypervariable loci; and from allele mis-matches caused by mutation or by laboratory errors that generate false exclusions. Many studies of parentage have been limited to comparisons of small numbers of specific parent-progeny triplets. There have been few large-scale surveys of candidates in which there is no prior knowledge of parentage. We present an algorithm that determines the probability of parentage in circumstances where there is no prior knowledge of pedigree and which is robust in the face of missing data and mis-typed data. The focus is parentage of an inbred line having uncertain ancestry. The algorithm is a variation of a previously published hybrid-focused algorithm. We describe the algorithm and demonstrate its performance in determining parentage of 43 inbred varieties of soybean that have been profiled using 236 SSR loci and from seven inbred varieties of maize that were profiled using 70 SSR loci. We include simulations of additional levels of missing and mis-typed data to show the algorithm's utility and flexibility.

The determination of parentage using molecular marker data has been little addressed for situations where there is little or no prior knowledge of parentage, or when large-scale surveys involving numerous candidate parents are required. Consequently, we have recently developed an algorithm and demonstrated its use in determining probability of parentage for hybrids in circumstances where there is no prior knowledge of pedigree and which is robust in the face of missing or mis-typed data (Berry *et al.* 2002). We now present a variation of this algorithm that allows determination of parentage for inbred lines or homozygous varieties.

We describe and evaluate a methodology that quantifies the probability of parentage of homozygous genotypes. Our algorithm takes into account that generations of self-pollination occur after the initial parental cross. The number of generations and the initial parental genotypes are unknown. Each generation of inbreeding reduces the number of heterozygous loci in the progeny by an average of 50%. Thus, each of the inbred progeny individuals resulting from the initial parental cross will have lost approximately half of the parental alleles for loci where the inbred parents were fixed for alternate alleles and which were heterozygous in the F1 generation.

The loss of parental alleles during the inbreeding phase is in contrast to the case of a hybrid progeny. An inbred progeny individual will exhibit a lower level of allelic similarity to either of its inbred parents than a hybrid progeny will to its inbred parents. This loss of some parental alleles during inbreeding might be expected to make an inbred algorithm less robust in the face of missing or mis-typed data compared with the hybrid algorithm that has been previously described (Berry *et al.* 2002). We therefore demonstrate the effectiveness and robustness of the inbred algorithm using examples from two species of cultivated plants. We first tested the

algorithm using varieties of the naturally self-pollinating, inbred crop, soybean [*Glycine max*. (*L.*) Merr.]. This crop was selected because numerous varieties of soybean with known pedigrees were available to us, many of which are closely related. We also used publicly bred inbreds of maize (*Zea mays L.*) that are of known pedigree. Maize is naturally an outcrossing species but inbred lines are most usually generated for use as parents of commercial hybrids. Inbred lines are generated by making successive generations of self-pollination following the initial bi-parental cross.

MATERIALS AND METHODS

Algorithm: The algorithm is a variation of the hybrid version of Berry *et al.* (2002). Consider an index inbred whose parentage is unknown or in dispute. A database containing possible inbred ancestors is available. The objective is to find the probabilities of closest ancestry for each inbred in the database using genotypic information from a large number of SSRs.

Consider a pair of possible ancestors, inbred i and inbred j . We calculate the probability that inbreds i and j are in the index's ancestry, repeating this for all pairs of inbreds in the database. Let $P(i,j|SSRs)$ stand for the posterior probability that i and j are ancestors of the index given the information from the various SSRs. Let $P(i,j)$ stand for the unconditional (or prior) probability of the same event and let $P(SSRs|i,j)$ be the probability of observing the various SSR results if in fact i and j are ancestors of the index. Just as in Berry *et al.* (2002), Bayes' rule relates these various probabilities:

$$P(i,j|SSRs) = P(SSRs|i,j)*P(i,j) / \sum[P(SSRs|u,v)*P(u,v)],$$

where the sum in the denominator is over all pairs of inbreds in the database, indexed by u and v . We need to calculate $P(SSRs|i,j)$ for each i and j . We will make the "no-prior-information" assumption that $P(i,j)$ is the same for all pairs (i,j) . Then $P(u,v)$ is a common multiple in the denominator that cancels with $P(i,j)$ in the numerator.

$$P(i,j|SSRs) = P(SSRs|i,j) / \sum P(SSRs|u,v).$$

The problem is to calculate a typical $P(SSRs|i,j)$, the probability of observing the index's SSRs assuming inbreds i and j are both ancestors. The nature of breeding before the self-pollination process is unknown. Since the creation of an inbred proceeds by multiple generations of self-pollination on a hybrid, we label the (unknown) hybrid used to create the (known) index inbred as the intermediate hybrid. When the intermediate hybrid is an immediate descendent of i and j , it receives one of inbred i 's alleles and one of inbred j 's alleles. When the intermediate hybrid is a second generation descendent of i and j , it receives one allele from each with probability 0.5. And so on. Since degree of ancestry (if any) is unknown, we label the actual probability of passing on one of these alleles to the intermediate hybrid to be p . As in Berry *et al.* (2002) we consider $p = 0.50$ and $p = 0.99$ and here we also consider the intermediate value $p = 0.75$.

When inbreds i and j are ancestors then there are four possibilities: (1) the alleles of both i and j were passed to the intermediate hybrid, (2) i came through but not j , (3) j came through but not i , and (4) neither came through. Assuming independence, these have respective probabilities p^2 ,

$p(1-p)$, $p(1-p)$, $(1-p)^2$. An allele in the intermediate hybrid's genotype that did not arise from either inbred i or inbred j is assumed to be selected with probability $1/n$, where n is the total number of alleles at the SSR in question. So far the steps we have described are identical to those for identifying the ancestors of a hybrid described by Berry *et al.* (2002) and, in fact, if the index is heterozygous at an SSR then calculations proceed just as for hybrids. Calculations are substantially different when the index inbred is homozygous, say genotype aa . Cases that must be considered are shown in Table 1, where x is any allele different from a (but not missing). All alleles other than a can be grouped because only a appears in the index's genotype. For example, xx might be bc or bd or bb .

$P(SSR|i,j)$ is the probability of observing the index assuming inbreds i and j are ancestors. The calculations for SSRs 1 to 6 are shown in Table 2, where the four terms in each case are in order of (1), (2), (3), (4) defined in the previous paragraph. Missing alleles are not considered in the examples above. The number of possibilities is large. Here we consider only the case in which inbred i is aa and both alleles of inbred j are missing. Then

$$P(SSR|i,j) = p^2(1/2 + 1/2 * 1/n) + p(1-p)(1/2 + 1/n * 1/2) + p(1-p)(1/n) + (1-p)^2(1/n)$$

Another possibility not considered above is that more than two alleles can be observed for an SSR marker run on individual DNA sample. This can be due to SSR locus duplication, homology due to allotropy, more than one individual plant being sampled for DNA extraction or cross-contamination. In this case we consider all possible pairings of the observed alleles and calculate using a multiple imputation procedure (Little and Rubin, 1987).

To find the overall $P(SSRs|i,j)$, multiply the individual $P(SSR|i,j)$ over the various SSRs. To determine the probability that any particular inbred, say inbred i , is the closest ancestor of the index, sum $P(SSR|i,v)$ over all inbreds v with $v \neq i$. Call this $P(i|SSRs)$. The maximum of $P(i|SSRs)$ for any inbred i is 1. But since there is one closest ancestor on each side of the family, the sum of $P(i|SSRs)$ over all inbreds i is 2.

SSR data: Soybean DNA was extracted from 490 varieties, all of which were bred in, and are adapted to, the United States. Plant material for DNA extraction was sampled from six plants of each variety. Most of the varieties are proprietary products of Pioneer Hi-Bred International. Several (non-patented) commercial varieties from other breeding companies and some important publicly bred varieties were also included. Procedures for obtaining SSR data from soybean were identical to those described for maize by Berry *et al.* (2002) apart from the following modifications: PCR products with different size ranges and labeled with different fluorochromes were pooled and diluted 1:9 with capillary electrophoresis buffer (Applied Biosystems) then 1:4 with dH2O. 1.5ul of pooled DNA were added to 10ul formamide containing the molecular weight size standard 400HD ROX (Applied Biosystems, ROX = 6-carboxy-X-rhodamine). Fragment separation was performed using capillary electrophoresis on an ABI3700 platform (Applied Biosystems), with an injection time of 10 sec at 10,000 V and a run time of 4,000 sec at 7,500 V. Forty-three soybean varieties that had both of their parent varieties also included in the dataset were assigned as index varieties. One to two and occasionally three grandparent varieties of several of the index varieties were also included in the dataset. These varieties collectively

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represent a broad array of diversity of soybean germplasm that is currently grown in the United States.

Two hundred and thirty-six publicly available soybean SSR markers (<http://soybase.agron.iastate.edu/>) were used to demonstrate and evaluate the algorithm. These SSR markers were selected following initial screens on a subset of 24 soybean varieties in which they were tested for amplification and the ability to detect polymorphism. The 236 markers gave good genome coverage and collectively mapped across each of the chromosomal linkage groups of soybean.

All allele scores were made without knowing the identities of the soybean genotypes.

Maize SSR data using 70 loci were previously reported by Senior *et al.* (1998) and were obtained directly from the first author. This publication (Senior *et al.* 1998) cites an array of 94 historically important publicly bred lines that have well known and well established pedigrees. This array of public inbreds includes seven inbreds (A632, A634, Mo17, Pa91, Va35, Va99 and W64A) that each have SSR profiles for their parental lines included in the same dataset. Three of these inbreds were developed from a breeding cross of two unrelated parents. These are: Mo17 which was bred from the cross of C.I. 187-2 x C103; Va99, which was bred from the cross Oh07B x Pa91; and W64A which was bred from the cross of WF9 x C.I. 187-2. Other inbred progeny had more complex pedigrees. One inbred (Va35) was bred from the cross C103 x T8 following an additional cross of T8 as the recurrent parent. Two inbreds (A632 and A634) were bred from the cross Mt42 x B14 following additional crosses of B14 as the recurrent parent.

Pa91 was bred from a complex cross involving four inbreds (WF9 x Oh40B) and (38-11 x L317). These seven progeny inbreds therefore provided an index set of maize inbreds for evaluation of the inbred algorithm.

RESULTS

Data quality: The soybean SSR data that were used to evaluate the algorithm had a mean of 5.5% (range 0-19% loci) missing data per variety. For parent-progeny triplets, there was a mean of 1.1% loci (range 0-5%) where a progeny profile was scored for an allele that was not represented by either of the seed sources that represented the parents. The maize SSR data had a mean of 0.7% missing data (only three genotypes had missing data; these were at elevated levels of 5%, 9%, and 36%). A mean of 6.4% parent/progeny triplets (range 4-7%) had SSR progeny profiles that did not share an allele with either of the seed sources that were available to represent the original parental genotypes.

Probability of ancestry applied to soybean data: Figures 1 and 2 present the probabilities of closest ancestry of the top ranking varieties for each of 43 soybean varieties using data from 236 marker loci at $p = 0.50$ (Fig 1) and at $p = 0.99$ (Fig 2).

When the algorithm was used at $p = 0.5$ with data from all 236 loci (Fig 1), then 24/43 (56%) of index varieties had both parents correctly identified in the top two ranked positions, 12/43 (28%) had one parent correctly placed in one of the top two positions, and 7/43 (16%) had none of the actual parents assigned into the top two ranked positions. Thus, when $p = 0.5$ was used, 60/86

(70%) of actual parental varieties were correctly ranked in the top two positions and 26/86 (30%) were incorrectly placed in lower positions.

When the algorithm was used at $p = 0.75$ with data from all 236 loci (data not shown), 28/43 (65%) of index varieties had both parents correctly identified in the top two ranked positions, 11/43 (26%) had one parent correctly placed in one of the top two positions, and 4/43 (9%) had none of the actual parents assigned into the top two ranked positions. Therefore, when $p = 0.75$ was used, 67/86 (78%) of the actual parental varieties were correctly ranked in the top two positions and 19/86 (22%) were incorrectly placed in lower positions.

When the algorithm was used at $p = 0.99$ with data from all 236 loci (Fig 2), then 33/43 (77%) of actual parental varieties were correctly ranked in the top two positions and 10/86 (23%) had one parent correctly placed; all index varieties had at least one parent ranked in the top two positions when the algorithm was used at $p = 0.99$. With p used at 0.99 then 76/86 (88%) of actual parental varieties were correctly assigned; 10/86 (12%) were incorrectly assigned.

Table 3 presents the rankings, probabilities, and pedigrees of varieties that were incorrectly assigned above a true parent. The largest pedigree class (41% of cases where a non-parent ranked above a true parent) of non-parents ranking higher than parents was for varieties that are derivatives of the parent that was misplaced at a lower ranking. The equal second largest classes (each representing 14% of the cases) were for varieties that were (a) full sibs of the true but misplaced parent and (b) full sibs of a grandparent of the variety for which the pedigree was being tested. Other categories (percent of cases in parentheses) were: multiple backcross versions

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of the misplaced parent (7%), a derivative of the variety or which the pedigree was being tested (7%), a half-sib of the true but lower ranked parent (7%), a full sib of the variety for which the pedigree was being tested (3%), and a half-sib of the variety for which the pedigree was being tested (3%). Insufficiently detailed pedigree information is available to categorize one variety (3% of cases) that ranked above the true parent

Robustness: The quality of soybean SSR data as received from the laboratory, in terms of missing data and apparently non-Mendelian parent-progeny triplets, have already been presented. Taking these data as an initial starting point, additional levels of missing and mis-typed data were created by simulations and used to explore robustness of the algorithm.

SSR data for five index soybean varieties were used to determine the robustness of the algorithm. Subsets of data were created that included parameters of reduced numbers of loci, additional levels of missing data, additional levels of mis-typed data, and various combinations of these parameters. Simulated levels of missing and mis-typed data were created with a first pass creating missing data, followed by a second pass creating mis-typed data. Therefore, for example, the maximum level of cumulative error from simulated missing and mis-typed data was from 36 to 40%. Five varieties were chosen to represent a range of diversity in respect of both pedigree and SSR profiles. Four varieties had no parents or grandparents in common and one pair of varieties was related by a common parent. All varieties had parents ranked in the top two positions when the algorithm was run at $p = 0.75$ and $p = 0.99$. This selection of varieties therefore provides a means to establish lower boundaries for both the quantity and quality of SSR data that are required to avoid aberrant results.

Table 4 presents the probability of ancestry of the top five ranked varieties for each of five selected soybean index varieties (93B11, A7986, P9443, S38T8 and Young) when the algorithm is run using different numbers of SSR marker loci (50, 100, 150 and 236) at each of two levels of p (0.5 and 0.99). Using $p = 0.5$, the lowest percentage of parents (60%) that were correctly ranked into the top two positions corresponded to using only 50 SSR. Increasing the number of loci to 100 or 150 or 236 increased the ability to identify the actual parents to about 90%. When p was used at a level of 0.99 all parents were correctly ranked into the top two positions for each of the five varieties when data from as few as 50 SSR loci were used.

Table 5 summarizes other aspects of robustness. Namely, we simulated additional levels of missing, mis-typed and missing plus mis-typed data, beyond those that were inherent in the data as provided by the laboratory. When p was used at a level of 0.5, robustness was generally maintained up to an additional level of 20% simulated missing data, so long as data from 100 or more loci were used. Similarly, robustness was maintained for up to 20% additional mis-typed data so long as data from 100 or more loci were used. Likewise, robustness was maintained with up to 18 to 20% additional levels of data error including both missing and mis-typed data, so long as data from 150 or more loci were used. Using data for all 236 loci provided a higher level of robustness, but even then robustness collapsed when 36 to 40% cumulative additional error from missing and mistyped data were simulated into the analysis. The overall level of correct assignation of parent varieties was higher when p was used at a level of 0.99. All parents then were correctly identified, even when data from only 50 loci were used up to an additional level of 10% missing data. When data from 100 or more loci were used then all parents were correctly

identified with up to 20% additional missing data. Robustness started to decline when the algorithm was applied with 10% additional mis-typed data when data from 150 or fewer SSR loci were used. However, robustness was maintained for up to 20% additional mis-typed data when data from 236 SSR loci were used. When additional levels of both incorrect data were applied then robustness was maintained at levels of up to 10% missing plus 10% mis-typed data so long as data from at least 150 SSR loci were used. Robustness was compromised when additional simulations of 20% missing plus 20% mis-typed data were applied even when data from all 236 SSR loci were used.

We then investigated the relationships of varieties to the index genotype whose pedigree was under examination by rerunning the analysis after both parents of the index genotype had been removed from the analysis. Fifteen varieties that had two or more of their grandparents profiled in the dataset were used for this examination. After removing parents, direct pedigree derivatives of the index genotype ranked first for P9583, in the first three places for A2943 and in the first six places for P9561. Once all parents and derivatives of the index genotype had been removed from the analysis then the following results were obtained. Predominant classes of varieties ranking in the top five positions were (percent of cases in parentheses): derivatives of the grandparent of the index variety (32%), grandparents of the index variety (16%), derivatives of the parents of the index variety (16%), and half-sibs of the index variety (13%). Grandparents ranked among the first four positions for 10 varieties and were in the first place for five varieties. Great-grandparents ranked within the first seven places for three varieties, and a great-great-grandparent ranked in eighth place for one variety. Other varieties that ranked in the first place were usually closely related to the variety whose pedigree was under examination; full-sibs and

half-sibs were the predominant classes of relatives other than grandparents in the first ranking position after parents and direct derivatives of the variety under examination had been removed.

Probability of ancestry applied to corn data: The seven index inbreds of maize were selected because they represented all of the inbred lines published upon by Senior *et al.* (1998) that had all of their inbred parents also included in the SSR dataset. All of the inbred lines published by Senior *et al.* (1998) have well known and well established pedigrees that are fully provided by those authors.

Table 6 presents probabilities of ancestry for the top five ranked inbreds for each of the seven index inbred lines at two levels of p (0.5 and 0.99). For the three progeny that were bred from single crosses without any subsequent use of one of the parents to make a recurrent cross prior to inbreeding (Mo17, Va99, and W64A) then use of the algorithm at either $p = 0.5$ or at $p = 0.99$ resulted in the parental inbreds being ranked in first and second positions. Use of the algorithm at $p = 0.99$ provided greater discrimination for probabilities of ancestry that were assigned to actual parents compared to highest ranking non-parents. This was most noticeable for the case of inbred Va99 which had a relatively low value when used at $p = 0.5$ for parent 2 (0.5221) compared to parent 1 (0.9999) or to the third ranked inbred (and non-parent), Va22 (0.4252). In contrast, when the program was run at $p = 0.99$ then parent1 and parent2 for Va99 had probabilities of 1 and 0.9855, respectively, with the probability of the third ranked inbred being 0.0131.

For each of the three progeny inbreds that originated from breeding schemes that involved one or more additional crosses of one of their parents, using the algorithm at $p = 0.5$ resulted in

placement of the respective recurrent parent with the highest probability of ancestry. Raising the level of p to 0.99 resulted in both parents (B14 = recurrent parent and MT42 the non-recurrent parent) of the index inbred A632 being ranked in the top two places. Using this level of p also caused a higher ranking (third position) for the non-recurrent parent (MT42) of index inbred A634. Use of p at 0.99 did not cause the non-recurrent parent (C103) of index inbred (Va35) to rank into the top five places.

For the index inbred (Pa91) that was bred from a more complex cross involving four inbred lines, the use of p at 0.5 or at 0.99 resulted in the two parents (WF9 and Oh40B) being ranked in second and third places; highest ranked was inbred Va99 (Va99 is derived from the index inbred Pa91). Neither of the two remaining parents of Pa91 ranked in the top five places.

DISCUSSION

The current widely used North American soybean varieties are founded upon a relatively narrow genetic base of diversity. Gizlice *et al.* (1994) document that the U. S. soybean germplasm base is founded upon 20 plant introductions and that subsequent breeding has made repeated use of related parents. Molecular marker comparisons of elite U. S. soybean varieties compared to a sample of exotic varieties reinforce the conclusion that there is a relative paucity of genetic variation in U. S. soybeans. Narvel *et al.* (2000) have shown that the number of alleles detected among the exotics was 30% greater than among U. S. varieties. Thompson and Nelson (1998) report that very little exotic germplasm has been incorporated into the existing U. S. soybean germplasm base. Examining all pairs of pedigree relationships among the 490 soybean varieties

employed in this study showed that approximately 50% of pairwise relationships are related at the level of half-sib or closer; approximately 10% of pairs are related at the level of full-sib or closer. This set of soybean varieties therefore provides the basis for an extremely rigorous evaluation of the ability of SSR data to distinguish between varieties and of this algorithm to identify pedigrees. Pedigree breeding, including the use of related parents, is also commonly applied in the breeding of maize inbred lines. The set of maize inbreds used here thus also provides a meaningful evaluation of the marker data to discriminate among inbred lines and of the joint ability of the algorithm and of the marker data to allow a determination of inbred pedigrees.

Use of the algorithm at $p = 0.99$ rather than at a lower level improved performance in terms of the percentage of correct assignations of parents and provided a greater statistical differential for probabilities for parents in comparison to the highest ranking non-parents. Use of the algorithm at $p = 0.99$ is more appropriate when it is known that the actual parents of the variety under examination are included among the set of index varieties. If it is not known that the parents are included in the index set then use of the algorithm at $p = 0.5$ is more justified (Berry *et al.* 2002). For the soybean varieties, when p was used at 0.99, then 77% of all varieties that were queried for their parents had both parents correctly identified. Eight-eight percent of soybean parents were correctly identified across 43 index varieties that were queried for their parents. All varieties (with the possible exception of one variety where detailed pedigree information was not available) that ranked above true parents were related either to the mis-ranked parent or to the variety that was being queried for its pedigree. Our previous report of the use of an algorithm to determine hybrid pedigrees (Berry *et al.* 2002) showed a higher level of correct parental

determinations at $p = 0.99$. Many of these soybean varieties have a high degree of pedigree relatedness. However, many of the maize inbred lines that were used in the previously reported study (Berry *et al.* 2002) were also highly related. It is, however, likely to be inherently more challenging to correctly identify parents following cycles of inbreeding because half of the alleles that are segregating in the first generation following the initial breeding cross will be subsequently lost as recurring cycles of self-fertilization occur. Thus, many of the alleles that are present in a hybrid, and which can therefore contribute to the identification of its pedigree, do not remain present in an inbred homozygous progeny.

We examined the pedigrees of soybean index varieties when both parents of the index had been removed from the set of candidate varieties. Direct pedigree descendants with the index variety as one parent then usually ranked higher than other varieties, including varieties that were grandparents or sister varieties of the index variety. When all parents and direct derivatives of the index variety were excluded from the analysis then the predominant classes of varieties ranking in the top five positions were derivatives of the grandparent of the index variety (32%), grandparents of the index variety (16%), derivatives of the parents of the index variety (16%), and half-sibs of the index variety (13%). The SSR data that were available to us did not allow a thorough or very precise assessment of how varieties with different degrees of relatedness would rank as members of the pedigree in the event that the true parents were not present in the database. Nonetheless, when parents were excluded from the analysis then varieties that were very closely related to the index variety ranked highest. Direct descendants dependent for their pedigree upon the index variety, if present, tended to rise above varieties included within other classes of pedigree relationship to the index variety. When varieties directly descended by

pedigree from the index variety were also excluded then a grandparent ranked into first position for 33% of the varieties that were examined. Direct pedigree derivatives of one or more of the parents of the index variety had an equal level of occurrence when parents and derivatives of the index variety were excluded. Further investigations of the identification of grandparents will require a dataset including all grandparents of each index variety and will also require a revised algorithm to take account of pedigree contributions from four varieties as opposed to pairs of varieties which forms the basis of the current inbred algorithm.

For the maize inbred line pedigrees, use of the algorithm either at $p = 0.5$ or at $p = 0.99$ resulted in the correct identification of both parents in all cases where the breeding scheme was an initial cross of two parental lines followed by subsequent cycles of inbreeding (i.e. for the inbreds Mo17, Va99 and W64A). The relatively high level of robustness for results with maize inbreds at $p = 0.5$, in contrast to the results obtained from analyzing soybean data (where 56% of varieties had both parents correctly identified when $p = 0.5$ was used) could be accounted for by the smaller sample size of maize inbreds and by the lower degree of mean pedigree relatedness amongst this selection of inbred lines in comparison to the soybean varieties. Thus while several inbred lines in this set are closely related, there remain many inbreds that have little or no pedigree relationship (Senior *et al.* 1998).

The inbred algorithm correctly identified both parents of the three maize index inbreds that had been bred from bi-parental crosses that involved equal contributions (by pedigree) from both parents. For the three bi-parental crosses that involved subsequent additional crosses of the recurrent parent (and thus significantly biased contributions by pedigree to the index variety

from the recurrent parent) then use of the algorithm correctly identified each of the recurrent parents. The algorithm was unable to identify the non-recurrent parent in most cases, but this result would be expected because one backcross reduces the expected pedigree contribution of the non-recurrent inbred to 25%. More generations of backcrossing using the recurrent parent then further reduce the expected pedigree contribution of the non-recurrent parent by half at each generation (successively to 12.5%, 6.25%, 3.125%) with the pedigree contribution of the recurrent parent rising accordingly. Since several inbred lines of maize are related by pedigree then it is not surprising that the level of pedigree or SSR similarity of a non-recurrent parent to the index progeny can fall below other inbred lines that are related to the index variety. The algorithm was not able to preferentially identify parents of the inbred line Pa91, which was bred from a complex breeding scheme involving four parents with equal contributions by pedigree. A more suitable algorithm is needed to take account of four way crosses. However, such a need is primarily academic because most breeding crosses in commercial maize breeding, and indeed for most crops, are bi-parental.

These soybean data had a mean of 5.5% missing data per variety and a mean of 1.1% loci where a progeny was scored with an allele that was not also scored in either or both parents. Such apparent non-Mendelian or exclusionary profiles can be due to pollen contamination during inbreeding, cross contamination in the field or laboratory, scoring errors in the laboratory (e.g. scoring +A, predominant stuttering, spectral pull-up, secondary binding sites or polymer spikes), or incorrect pedigrees. Another source of apparent exclusion is through the use of a seed source as a parent that is still heterogeneous due to inbreeding being incomplete. Cycles of inbreeding then continue so that when those seed sources are used in the future as sources for SSR profiling

to represent the parental genotype they will have lost alleles due to inbreeding that have already been passed on to a progeny. Alternately, residual heterozygosity within seed sources can result in low frequencies of heterozygotes or off-type segregants which may, by chance, be sampled in the progeny, but not sampled in the parent. In this study we sampled six plants to represent the variety which may be insufficient to capture alleles existing at low frequencies within the seed source. And even if the allele was sampled, it may not have been detected following PCR amplification due to predominance of the most frequent allele and allelic competition effects. Hall (2002) has also reported the occurrence of apparent non-parental SSR alleles. Mutation can also affect SSR profiles. Vigouroux *et al.* (2002) have estimated mutation rates of 7.7×10^{-4} per generation for dinucleotide SSRs and an upper 95% confidence limit of 5.1×10^{-5} for SSRs with longer repeat units. A level of error or discrepancy in expected SSR profiles are thus inevitable for some, if not all crop plants. We therefore evaluated the robustness of the algorithm and dataset by rerunning the algorithm using datasets that were simulated to have up to 20% additional levels of missing plus 20% mis-typed data beyond the level that was received from the laboratory. The algorithm maintained its initial level of robustness with up to an additional level of 10% both missing and mis-typed data, provided data from at least 100 SSR loci were used. Fewer loci (60) were capable of retaining this degree of robustness in the evaluation of the hybrid pedigree algorithm using maize hybrids (Berry *et al.* 2002). The loss of parental alleles that occurs during the inbreeding process, in contrast to their retention in a hybrid progeny compared to its parents, probably underlies the need to use data from a greater number of loci to maintain robustness for the inbred algorithm as compared to the hybrid algorithm.

It was anticipated that determination of pedigrees following cycles of inbreeding might be more challenging to accomplish than to determine pedigrees of hybrids where the total nuclear genetic contributions of both parents are preserved. Nonetheless, these results show that the algorithm can be used effectively to identifying parents of inbred genotypes. Nearly 90% of soybean parents were identified. This is a set of genotypes which, due to the relatively narrow founder base and subsequent cycles of development through the use of related crosses, provides an extremely rigorous test of the algorithm and of the discriminatory power of the marker data. Supplementary data also show the capability of the algorithm to identify parents of maize inbreds that have been developed in a pedigree system using two parents. Use of this algorithm with currently available codominantly expressed molecular marker data has also been shown to have practical feasibility because of the high degree of robustness that is evident and which extends well beyond the realm of aberrant or unexpected marker data that is encountered. These types of error or unexpected marker data can include laboratory error, sampling effects or the use of different seed sources for the actual parental source compared to a more inbred source that becomes available later to represent the parental genotype. This algorithm has application in a number of fields, including conservation biology, population genetics, and to assist in the protection of intellectual property rights.

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Table 1. Calculations of ancestry for homozygous index inbreds: Cases that must be considered
for example of genotype aa .

SSR	Index	Inbred i	Inbred j
1	aa	aa	Aa
2	aa	aa	Ax
3	aa	aa	Xx
4	aa	ax	Ax
5	aa	ax	Xx
6	aa	xx	Xx

x is any allele different from a , but not missing

Table 2. Probability of observing the index [$P(SSR|i,j)$] assuming inbreds i and j are ancestors:

Calculations for SSRs 1 to 6.

SSR	$P(SSR i,j)$
1	$p^2(4/4) + p(1-p)(1/2+1/n*1/2) + p(1-p)(1/2+1/n*1/2) + (1-p)^2(1/n)$
2	$p^2(3/4) + p(1-p)(1/2+1/n*1/2) + p(1-p)(1/2*1/2+1/n*1/2) + (1-p)^2(1/n)$
3	$p^2(2/4) + p(1-p)(1/2+1/n*1/2) + p(1-p)(1/n*1/2) + (1-p)^2(1/n)$
4	$p^2(2/4) + p(1-p)(1/2*1/2+1/n*1/2) + p(1-p)(1/2*1/2+1/n*1/2) + (1-p)^2(1/n)$
5	$p^2(1/4) + p(1-p)(1/2*1/2+1/n*1/2) + p(1-p)(1/n*1/2) + (1-p)^2(1/n)$
6	$p^2(0/4) + p(1-p)(1/n*1/2) + p(1-p)(1/n*1/2) + (1-p)^2(1/n)$

The four terms in each case are in order of the four possibilities when inbreds i and j are ancestors: (1) the alleles of both i and j were passed to the intermediate hybrid, (2) i came through but not j , (3) j came through but not i , and (4) neither came through. Missing alleles are not considered.

Table 3. Probabilities of ancestry and pedigree relationships for soybean varieties where both parents did not rank above non-parents.

Case no.	Index variety	Rank	Possible ancestor	Probability
1	95B97	1	Parent 2	1
		2	Full sib of parent 1	0.5822
		3	Parent 1	0.4124
2	A2943	1	Parent 1	0.9977
		2	Multiple backcross of parent 2	0.7999
		3	Parent 2	0.1999
3	A4595	1	Parent 1	1
		2	Derivative of parent 2	0.9956
		3	Multiple backcross of parent 2	0.0034
		4	Derivative of Parent 2	0.0006
		5	Half sib of A4595	0.0004
		6	Parent 2	0.0001
4	Hark	1	Parent 1	1
		2	Derivative of parent 2	1
		3	Derivative of parent 2	2.1E-09
		4	Derivative of parent 2	1.4E-09
		5	Derivative of Hark	3.1E-10
		6	Derivative of parent 2	1.1E-13
		7	unknown	3.8E-15
		8	Derivative of parent 2	4.6E-17
		9	Derivative of parent 2	4.7E-21
		10	Parent 2	2.7E-21
5	Kent	1	Parent 2	1
		2	Derivative of parent 1	0.9990
		3	Derivative of parent 1	0.0011
		4	Parent 1	3.0E-04
6	P9583	1	Parent 1	1
		2	Full sib of P9583	0.8801
		3	Parent 2	0.1199
7	P9641	1	Parent 2	1
		2	Derivative of P9641	1
		3	Parent 1	3.7E-06
8	S30J2	1	Parent 1	1
		2	Derivative of parent 2	0.9321

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		3 Parent 2	0.0679
9	YB30K01	1 Parent 2	1
		2 Half sib of parent 1	1
		3 Full sib of parent 2	7.9E-09
		4 Half sib of parent 2	3.3E-09
		5 Full sib of grandparent	1.2E-10
		6 Derivative of parent 1	3.0E-11
		7 Full sib of parent 2	2.0E-11
		8 Full sib of grandparent	8.7E-12
		9 Parent 1	1.1E-12
10	YB41Q01	1 Parent 2	1
		2 Full sib of parent 1	1
		3 Full sib of grandparent	7.3E-05
		4 Full sib of grandparent	4.1E-09
		5 Parent 1	9.1E-10

Results for 33 (77%) varieties where both parents were ranked first and second are not included in this table (see Figures 1 and 2).

Table 4. Probability of ancestry for five individual soybean varieties using SSR data obtained from different numbers of loci (50, 100, 150, 236).

Inbred	L50		L100		L150		L236	
	Possible ancestor	Prob						
P=0.5 93B11	XB31C	0.9461	XB31C	1	XB31C	1	XB31C	1
	A3415	0.8006	A3415	0.9362	A3415	0.9146	A3415	0.9954
	XB38A01	0.0256	WILLIAMS	0.0429	WILLIAMS	0.0809	WILLIAMS	0.0046
	P9271	0.0251	A3242	0.0155	YB30L01	0.0034	A3242	0
	YB30L01	0.0232	YB30L01	0.0015	A3242	0.0006	DOUGLAS	0
	COOK	0.7748	BRAXTON	0.9725	BRAXTON	1	BRAXTON	1
	XB63D00	0.2841	YOUNG	0.5302	YOUNG	0.8910	YOUNG	0.9929
	S6262	0.1826	COOK	0.3872	P9641	0.0404	XB63D00	0.0071
	YOUNG	0.1755	XB63D00	0.0496	XB63D00	0.0254	96B32	0
	BRAXTON	0.1065	P9641	0.0328	COOK	0.0245	P9641	0
P9443	DOUGLAS	0.8086	A3415	0.5557	FAYETTE	0.8760	FAYETTE	0.9885
	A3415	0.7629	FAYETTE	0.4957	A3415	0.7034	DOUGLAS	0.8847
	WILLIAMS	0.0887	DOUGLAS	0.4855	CX399	0.1671	A3415	0.0846
	YALE	0.0501	CX260C	0.2032	CX260C	0.1273	WILLIAMS	0.0348
	P9394	0.0411	WILLIAMS	0.1608	WILLIAMS	0.0948	CX399	0.0062
S38T8	S3535	0.8711	S3535	0.9993	S3535	1	S3535	1
	S4644	0.4543	S4644	0.9988	S4644	1	S4644	1
	YB44R01	0.2762	YB40M01	0.0012	YB37Y00	0	A4268	0
	YB40M01	0.1087	YB44R01	0.0004	93B65	0	YB44R01	0
	YB44Q01	0.0325	YB37Y00	0.0001	A4268	0	YB37Y00	0
	YOUNG	0.6589	DAVIS	0.6551	DAVIS	0.6324	DAVIS	0.9752
XB63D00	XB63D00	0.4942	ESSEX	0.5979	P9641	0.5524	P9641	0.5397
	96B32	0.3122	P9641	0.3409	COOK	0.3231	ESSEX	0.3273

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		COOK	0.0707 COOK	0.1692 ESSEX	0.2817 96B32	0.1299
	OGDEN		0.0606 96B32	0.1315 96B32	0.1933 COOK	0.0235
p=0.99						
93B11	XB31C	1	XB31C	1	XB31C	1
	A3415	0.9999	A3415	0.9999	A3415	1
	A3242	0.0001	A3242	0.0001	P9443	0
	P9443	0	P9443	0	A3242	0
	WILLIAMS	0	WILLIAMS	0	WILLIAMS	0
A7986	BRAXTON	1	BRAXTON	1	BRAXTON	1
	YOUNG	0.9903	YOUNG	0.9903	YOUNG	1
	P9641	0.0092	P9641	0.0092	96B32	0.0012
	96B32	0.0005	96B32	0.0005	P9641	0.0002
	DAVIS	0	DAVIS	0	DAVIS	0
P9443	DOUGLAS	0.9998	DOUGLAS	0.9999	FAYETTE	0.9995
	FAYETTE	0.7010	FAYETTE	0.7011	DOUGLAS	0.9993
	CX260C	0.2345	CX260C	0.2345	CX399	0.0006
	A3415	0.0644	A3415	0.0643	A3415	0.0005
	S3941	0.0001	AP3330	0.0001	P9394	0.0001
S38T8	S3535	1	S3535	1	S3535	1
	S4644	1	S4644	1	S4644	1
	YB40M01	0	YB40M01	0	93B67	0
	YB44R01	0	A5979	0	ST3780	0
	93B67	0	YB44R01	0	YB37Y00	0
YOUNG	DAVIS	1	DAVIS	1	DAVIS	1
	ESSEX	1	ESSEX	1	ESSEX	1
	P9641	0	P9641	0	COOK	0

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2 MAIZE - THE PLANT AND ITS PARTS

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One of the greatest deterrents to an appreciation of plant morphology is the terminology used to describe various plant parts. This problem is compounded in the case of maize because of its relatively unusual structure. We all learn that plants have a vegetative body composed of stems, leaves and roots, and that flowers contain sepals, petals, pistils and stamens. Maize, however, has at least three kinds of leaves, two kinds of stems, two kinds of roots, and two kinds of flowers in which glumes, lemmas and paleas take the place of sepals and petals. Fortunately, these parts are arranged in a relatively simple fashion, so the task of mastering maize morphology is not as difficult as it might seem. In this article we will identify some of the most important parts of the maize plant and describe their organization. More detailed descriptions of the developmental morphology of maize have been provided by a number of investigators. Kieselbach (1949, reprinted 1980) gives a good general picture of maize structure and development. The external morphology and the histology of the vegetative and reproductive shoots have been studied by Bonnett (1948, 1953), Sharman (1942) and Abbe and co-workers (Abbe and Phinney, 1951; Abbe et al., 1951), while the most comprehensive descriptions of the embryogeny are those of Randolph (1936) and Abbe and Stein (1954). A summary of the histology of the corn plant, written by Sass in 1955, has been reprinted in the recent edition of Corn and Corn Improvement (1976).

The organization of the plant body: Maize is a member of the grass family, the Gramineae, and as in all grasses, most of the plant body is leaf tissue (Fig. 1a). To appreciate the general organization of the maize plant it is helpful, therefore, to see it in a leaf-less state (Fig. 1b). Stripped naked, the maize plant is not very impressive. Its main stem, or culm, is a slender, segmented shaft similar to a stalk of bamboo or sugarcane. The enlarged joints along the stem, the nodes, mark the points of leaf attachment; the stem segment between nodes is called the internode. Each node bears a single leaf in a position opposite that of the neighboring leaf, giving the plant two vertical rows of leaves in a single plane (Fig. 1a; 2). This so-called distichous phyllotaxy is typical of all leaf-like appendages, wherever they occur on the plant.

Maize has unisexual, rather than bisexual flowers. Male (staminate) flowers are located at the apical tip of the main stem in the tassel, a branched inflorescence. Female (pistillate) flowers are found in one to several compact ears, located on the ends of short branches near the middle of the stem (Fig. 1b; 2).

This partitioning of male and female flowers in separate structures distinguishes maize from other cereals and is one of the principal reasons that its genetics has been so conveniently explored. Making controlled pollinations in maize requires little more effort than that involved in placing a bag over the tassel and ear shoot. To perform a controlled pollination in rice, wheat, barley and other cereals, it is necessary to emasculate each

Appendix C

flower used as a female parent, an especially tedious job when each flower yields only one seed.

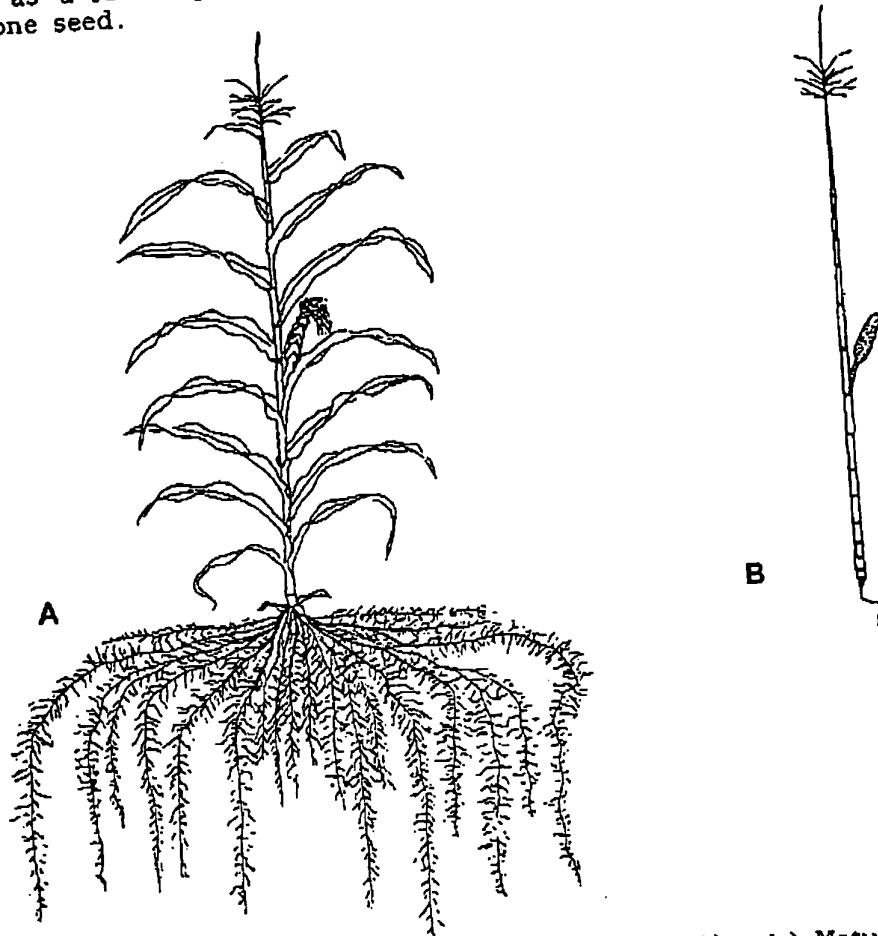


Figure 1. a) Mature maize plant (after Kiesselbach, 1949). b) Mature maize plant drawn without leaves and adventitious roots. The apical end of the main stem (culm) terminates in the tassel, while the basal end terminates in the primary root (radicle). The ear shoot arises from an internode near the center of the culm.

Maize also differs from closely related species in that it has relatively few branches. Only the lower 10 to 12 internodes of the stem produce branch primordia, and most of these remain suppressed. Above-ground primordia develop into ear shoots, while those located at subterranean internodes develop into tillers--branches identical in structure to the main stem. Commercial hybrids (except sweet corns) generally tiller very little, and typically produce a single viable ear shoot. In contrast, some "varieties" may have several large tillers and may produce 2 ears on the main stem and some ears on tillers.

The stem: During the first four weeks after germination, the growing point of the stem lays down all the nodes and internodes of the plant and then differentiates into a tassel. At the time of tassel formation the stem is not more than 3-4 inches tall, even though the plant may be 3-4 feet in

height (Fig. 3). Subsequently, the stem begins to elongate rapidly, with most of the growth occurring at the base of the internodes. The lowermost 6-8 internodes do not participate in this growth, however, and remain below ground where they produce the root system and tillers. These subterranean internodes taper sharply towards the base of the stem, forming a distinctive region, the crown (Fig. 1b). The stem is thickest a few inches above ground, and tapers gradually towards the tassel. All the internodes from the top ear downward have a distinct groove associated with the axillary bud at the base of the internodes; internodes above the ear lack axillary buds and are smoothly cylindrical.

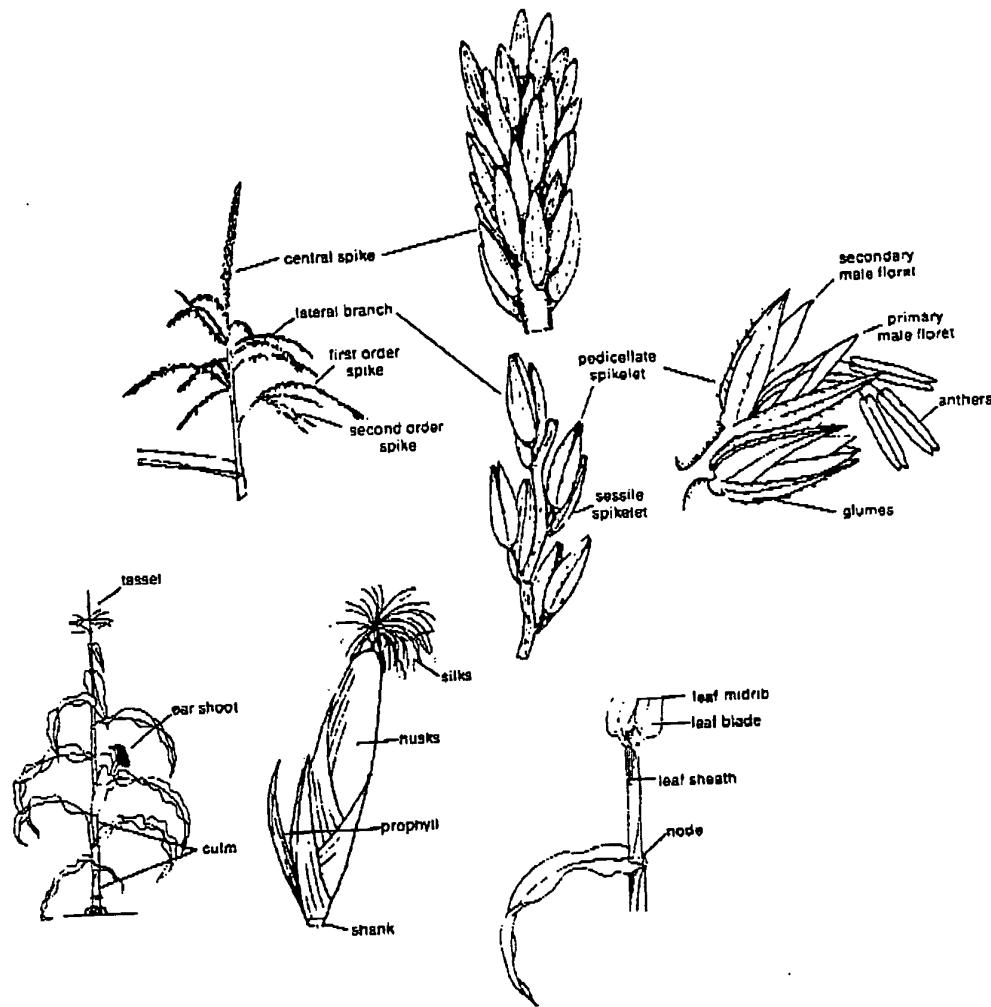


Figure 2. The major parts of the maize plant. Drawings in part from P. Weatherwax in *Corn and Corn Improvement*, 1955, and E. D. Styles et al. in *Can. J. Genet. Cytol.* 15:59, 1973; figure assembled by M. M. Johri and E. H. Coe.

The stem of an ear shoot, called the shank (Fig. 2), differs from the main stem in being relatively short in most strains. In addition, the internodes of the shank are variable in number, irregular in shape and size, and tend to have a crinkled rather than smooth surface. Secondary ear shoots commonly occur on the shank of several types of maize, but are rare in most commercial strains unless fertilization of the apical ear is prevented.



Figure 3. A four week old plant (approximately 3 feet tall) in which the stem apex has differentiated into a tassel. As shown on the right, the stem is still relatively short at this stage.

The tassel: The tassel, located at the top of the culm, consists of a series of large branches (spikes) covered with numerous, small flower-bearing branches (spikelets; Fig. 2). Each branch point on a spike bears two spikelets, one on a long stem (pedicellate), the other on a short stem (sessile) (Fig. 4a). Each of these spikelets, in turn, produces two functional florets. Although tassel florets contain both stamens and a pistil, the pistil normally degenerates soon after it is initiated, making the floret functionally male. However, pistils will develop at the base of the tassel under some environmental and physiological conditions, and are quite common on tillers.

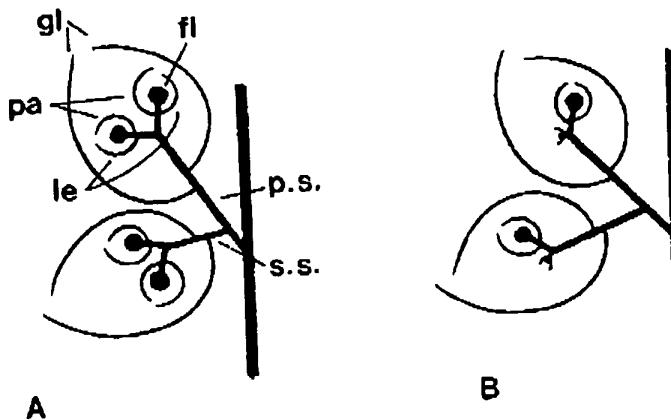


Figure 4. Schematic drawing of a pair of tassel spikelets (A) and a pair of ear spikelets (B). Note that the lower floret in the ear spikelet aborts early in development. p.s. - pedicellate spikelet; s.s. - sessile spikelet; gl - glumes; le - lemma; pa - palea; fl - floret.

Surrounding both florets on a spikelet are 2 leaf-like scales called glumes (Fig. 2; 4a). Within the glumes, each floret is individually enclosed in another pair of scales, one located adjacent to the glume (the lemma), the other located between the two florets (the palea) (Fig. 4a). At anthesis, these scales are forced apart by the swelling of conical structures (lodicles) at the base of the 3 stamens, and the filamentous base of the stamens elongates, forcing the anthers out of the flower (Fig. 2). As they dangle downwards, the anthers shed pollen from openings at their tip.

Pollen grains are the multicellular products of the haploid microspores that result from the meiosis of a microspore mother cell (microsporocyte). Meiosis takes place in the anther before the tassel emerges from the leaf sheaths. After meiosis, the 4 resulting haploid microspores separate from each other, and each forms a thick wall. Shortly before shedding, each microspore undergoes two mitotic divisions. The first division is asymmetric, and produces a relatively large vegetative cell and a smaller generative cell. In the second division, the generative cell divides to form two sperm cells.

The ear: The ear is morphologically similar to the tassel, although this resemblance is obscured by differences in the relative size of their parts. The crucial difference between them is, of course, that the tassel contains male flowers, and the ear bears female ones. This difference is due simply to the fact that during the formation of an ear floret, stamen primordia are arrested at an early stage in their development, while the pistil develops fully. Each functional ear floret has a single ovary, which terminates in an elongated style, or silk (Fig. 5). Within the ovary is a single embryo sac. The embryo sac is the product of one of the four haploid cells resulting from the meiosis of the megasporocyte. While its three sister cells degenerate, the nucleus of this cell divides three times to produce 8 haploid nuclei within a common cytoplasm (the embryo sac). Two of these nuclei (polar nuclei) migrate to the center of the embryo sac where they become closely associated. The three nuclei remaining at the base of the embryo sac

subsequently undergo cellularization to form the egg cell and two synergids, while the 3 nuclei at the tip of the embryo sac proliferate to form 24-48 antipodal cells.

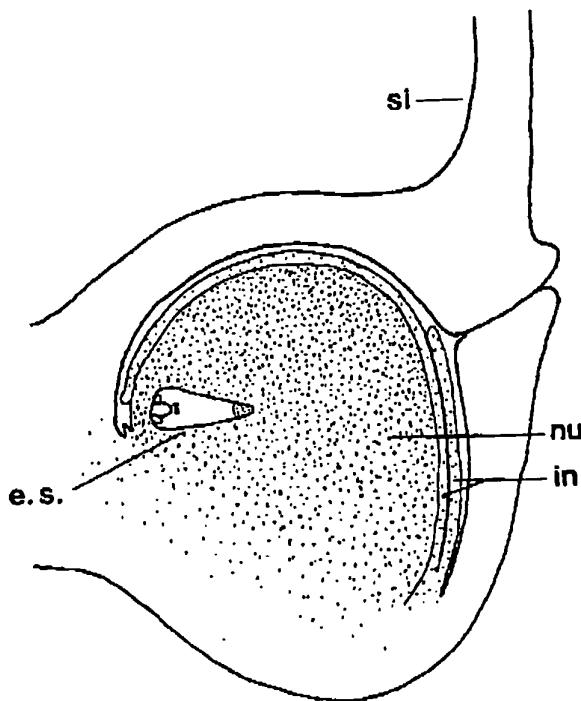


Figure 5. Radial longitudinal section of an ovary with an unfertilized embryo sac (after Randolph, 1936). Upon fertilization, the nucellus is digested by the expanding embryo sac and the tissue surrounding the nucellus is transformed into the pericarp. si - silk; e.s. - embryo sac; nu - nucellus; in - integuments.

The ear also differs from the tassel in that it has no major lateral branches. Its thick, lignified axis, the cob, is homologous to the central spike of the tassel. As in the tassel, ear spikelets come in pairs, but in the ear they are equal in size and only one of the florets in each spikelet is functional (Fig. 4b). An ear therefore has an even number of parallel rows of equally sized kernels equal to the number of spikelets on the cob. The number of rows (or ranks) of kernels ranges from 4 to 30.

The glumes, lemmas and paleas of the ear spikelets are readily visible in an unfertilized ear, but are soon obscured by the enlargement of the ovary after fertilization. In a mature ear these structures are represented by the chaff that adheres to the cob and the base of the kernel after it is shelled.

The leaf: Maize produces three kinds of vegetative leaves: foliar leaves, husk leaves and prophylls. A foliar leaf is located at each of the nodes on the main stem, husk leaves are located on the shank of the ear shoot, and prophylls are found at the base of the shank between the ear shoot and the stem (Fig. 2).

The foliar leaf has two distinct parts--the blade, a flat portion extending away from the stem, and the sheath, a basal part that wraps tightly around the stem (Fig. 2). Internally, the blade consists of a spongy network of cells traversed by a series of parallel, longitudinal veins. This flexible lamina is supported by the midrib, a thickened, translucent structure located in the center of the leaf. The sheath is thicker and more rigid than the blade, possesses fewer longitudinal veins, and lacks a prominent midrib. The sheath completely encircles the internode above the node to which it is attached and may extend the entire length of that internode. During the early development of the plant, the leaf sheaths provide most of the mechanical support necessary to keep the stem upright. At the boundary between the blade and the sheath there is a distinct hinge of translucent tissue. In this region, the leaf blade and leaf sheath narrow sharply, forming an indentation in the leaf margin. The wedge of translucent tissue adjacent to this indentation is known as the auricle. The ligule is the thin collar of filmy tissue located on the inside of the hinge.

The husk leaves surrounding the ear are usually considered modified leaf sheaths, with vestiges of the blade portions occasionally present. In some strains husk leaves develop a prominent ligule and leaf blade. In contrast to the leaf sheath, husk leaves are relatively thin and flat. Each husk leaf is attached to a unique node on the shank, and all but a few upper ones are arranged distichously.

Located between an ear shoot and the stem, the prophyll looks superficially like a husk leaf, but is distinguished by having two keels (midribs) and a split apex. These features suggest that the prophyll arose evolutionarily from the fusion of two foliar leaves. The homology of the prophyll is still controversial, however. Galinat (1959), for example, considers the prophyll one of the basic units of maize morphology, the others being the internode, leaf and axillary bud.

The root: More is known about the growth, cell biology, physiology and anatomy of the primary maize root, or radicle, than perhaps any other organ of the plant. Its histological structure, described by Sass (1976) and Kiesselbach (1949), is typical of roots in general. The apex of the root is sheathed in a loose network of root cap cells. Immediately behind the apex is a zone of cell division and elongation, beyond which root hairs are initiated. Larger lateral roots arise at varying points behind the zone of root hair formation. Cell division is restricted to the apical 3 mm of the root, and occurs at a maximal rate 1.25 mm behind the apex. The zone of elongation extends 8 mm behind the apex, the rate of elongation being maximal 4 mm from the tip (Erickson and Sax, 1956). Those interested in using the root for physiological or cell cycle studies should consult Silk and Erickson (1979; 1980) and Green (1976) for an analysis of the growth parameters that must be taken into consideration in such studies.

The primary root represents the basal end of the plant axis, which in maize and other grasses contributes relatively little to the ultimate root system (compare Fig. 1a and b). Most of the root system consists of adventitious roots produced by the basal-most internodes of the stem. The primordia of a few adventitious roots are normally present in the embryo, and these emerge soon after germination. New root primordia are subsequently initiated at the base of all subterranean internodes, and also appear

at 2 or 3 above-ground internodes after the stem has elongated. Subterranean adventitious roots are sometimes called crown roots, while those initiated above ground are known as brace roots.

Adventitious roots grow horizontally for several feet before turning downwards. As a result, the root system of a single plant often covers a region 6-8 feet in diameter, while the depth of the root system may be as much as 6 feet. As it grows, the root branches profusely in the region behind the apex, forming both secondary roots and unicellular root hairs. The total length of root system of a mature plant has been estimated to be 6 miles.

The kernel: The events surrounding the process of fertilization have been described by Miller (1919), Kiesselbach (1949) and Pfahler (1975); unfortunately, ultrastructural information about this phenomenon is still unavailable.

The silk is receptive to pollen along its entire length. Within 5 minutes after a pollen grain lands on a silk it sends out a tube which penetrates the silk and grows downward towards the ovary. During this process the vegetative nucleus and the two sperm cells migrate to the tip of the pollen tube where they remain throughout its growth. Upon reaching the embryo sac, 12 to 24 hours after germination, the end of the pollen tube bursts, releasing the two sperm. One sperm nucleus fuses with the two polar nuclei in the center of the embryo sac to form a triploid cell that gives rise to the endosperm. The other sperm nucleus fuses with the egg nucleus to form the zygote. As often as 2% of the time the polar nuclei and the egg nucleus are fertilized by sperm from different pollen grains, with the extra sperm nuclei being somehow lost (Sarkar and Coe, 1971). This phenomenon, called heterofertilization, can lead to a non-correspondence between the genotype of the endosperm and embryo when the male parent is heterozygous.

The development of the kernel following fertilization has been described in detail by Randolph (1936). We will only note here that this process takes 40-50 days and is accompanied by a 1400-fold increase in the volume of the embryo sac. The growth of the embryo and the accumulation of food reserves in the endosperm is completed by about day 40, and the remaining 10-20 days is spent maturing and drying.

A mature kernel has three major parts: the pericarp, endosperm and embryo (Fig. 6). The pericarp, the tough transparent outer layer of the kernel, is derived from the ovary wall and is therefore genetically identical to the maternal parent. The endosperm and embryo represent the next generation.

The endosperm makes up about 85% of the weight of the kernel and is the food source for the embryo for several days after it germinates. This food takes the form of intracellular starch grains and protein bodies, and is concentrated to varying degrees in different parts of the endosperm (Duvick, 1961). In flint-type kernels the concentration of starch and protein bodies is higher around the periphery of the endosperm than in the center, giving the endosperm a hard, corneous external layer, and a soft, granular center. In dent kernels, the granular tissue extends to the crown of the endosperm so that it collapses upon drying and produces a distinct indentation. These two traits are polygenic in their inheritance and are

characteristic of specific races of maize. Other common endosperm traits, such as sugary, floury or shrunken, are single gene mutations and can exist in either a flint or dent background.

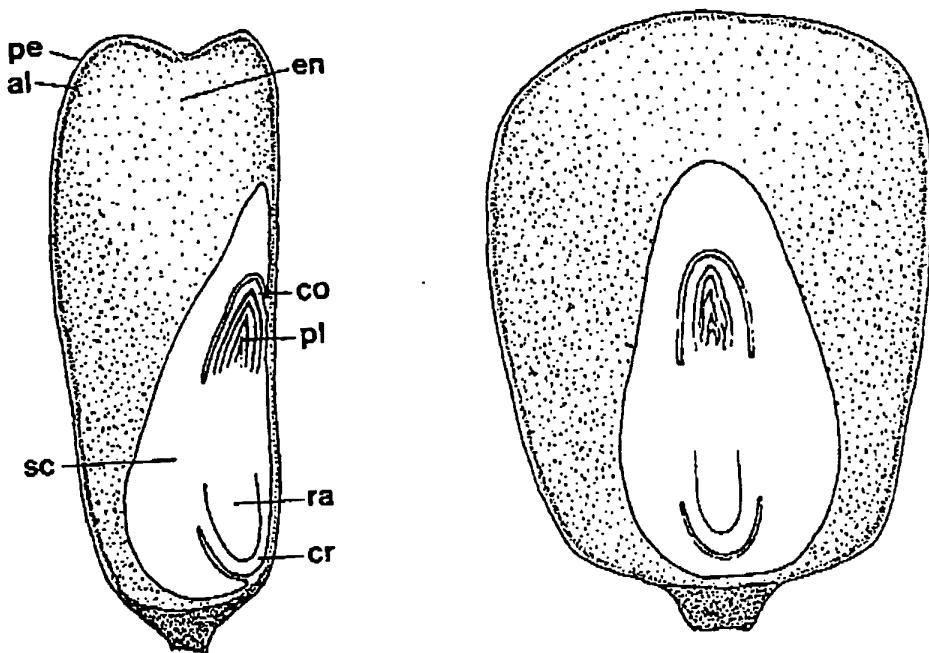


Figure 6. Longitudinal sectors of a mature dent kernel, taken perpendicular (left) and parallel (right) to the upper face of the kernel (after Kiesselbach, 1949). pe - pericarp; en - endosperm; al - aleurone; sc - scutellum; co - coleoptile; pl - plumule; ra - radicle; cr - coleorhiza.

Much of our understanding of gene action in maize is based on the analysis of genes affecting the pigmentation of the external layer of the endosperm, the aleurone. This specialized single cell layer is the only part of the endosperm capable of becoming intensely pigmented. Internal endosperm cells may be either yellow or white.

The embryo is located on the broad side of the kernel facing the upper end of the ear, beneath a thin layer of endosperm cells. Most of the tissue in the embryo is part of the scutellum, a spade-like structure concerned with digesting and transmitting to the germinating seedling the nutrients stored in the endosperm. The shoot and root axis are recessed in the outer face of the scutellum. In a mature kernel, the shoot (plumule) has 5 to 6 leaf primordia that are arrested at successive stages of development (Abbe and Stein, 1954). Surrounding the shoot is a cylindrical structure called the coleoptile. Upon germination, the coleoptile elongates until it is above the leaves within it. The root is enclosed in a sheath of tissue called the coleorhiza. Unlike the coleoptile, the coleorhiza does not elongate very much, and gives way to the radicle as soon as it emerges from the seed.

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Assessing Probability of Ancestry Using Simple Sequence Repeat Profiles: Applications to Maize Hybrids and Inbreds

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ABSTRACT

Determination of parentage is fundamental to the study of biology and to applications such as the identification of pedigrees. Limitations to studies of parentage have stemmed from the use of an insufficient number of hypervariable loci and mismatches of alleles that can be caused by mutation or by laboratory error and that can generate false exclusions. Furthermore, most studies of parentage have been limited to comparisons of small numbers of specific parent-progeny triplets thereby precluding large-scale surveys of candidates where there may be no prior knowledge of parentage. We present an algorithm that can determine probability of parentage in circumstances where there is no prior knowledge of pedigree and that is robust in the face of missing data or mistyped data. We present data from 54 maize hybrids and 586 maize inbreds that were profiled using 195 SSR loci including simulations of additional levels of missing and mistyped data to demonstrate the utility and flexibility of this algorithm.

DETERMINATION of parentage is fundamental to the study of reproductive and behavioral biology. The increasing availability of highly discriminant genetic markers for many diverse species provides the potential to uniquely characterize individuals at numerous loci and to unambiguously resolve parentage where genealogical relationships are unknown, in error, or in dispute.

Identification of parent-progeny relationships in wild populations of animals and plants provides insights into the success of various reproductive strategies (ELLSTRAND 1984; SMOUSE and MEAGHER 1994; ALDERSON *et al.* 1999) and has allowed for the implementation of management programs to conserve genetic diversity (MILLER 1975; RANNALA and MOUNTAIN 1997). The association of pedigree with physical appearance or performance in domesticated animals and plants allows parents that have contributed favorable alleles for desirable traits through selective breeding programs to be identified (BOWERS and MEREDITH 1997; SEFC *et al.* 1998; VANKAN and FADDY 1999). These applications of associative genetics facilitate further progress in genetic improvement through breeding. Establishment of parentage is also useful to secure legal rights of guardianship in humans, to help protect intellectual property in plant varieties, to validate breed pedigrees of domesticated animals, to protect stocks of fish, and to identify provenance of meat that is available in supermarkets

(GOTZ and THALLER 1998; PRIMMER *et al.* 2000; WHITE *et al.* 2000).

Most studies of pedigree have utilized exclusion analysis where the molecular marker genotypes of either one or a restricted number of potential triplets of offspring and putative parents are compared. Often the identity of the mother is not in question; the maternal profile is subtracted from that of the offspring and the deduced paternal profile is then compared with candidate father genotypes (ELLSTRAND 1984; HAMRICK and SCHNABEL 1985). Individuals who could not have contributed the paternal genotype are excluded; the remainder are possible parents. Nonpaternity in humans is generally declared only on the basis of exclusions exhibited by at least two unlinked and independent loci. This criterion of exclusion reduces the likelihood of a false declaration of nonpaternity on the basis of marker results that are actually due to mutation within the phylogeny. BEIN *et al.* (1998) show that evidence of nonpaternity should require exclusions at loci on different chromosomes to avoid erroneous conclusions that would be made due to nondisjunction at meiosis leading to uniparental inheritance. A requirement for at least three independent exclusions to declare nonpaternity in humans has also been instituted (GUNN *et al.* 1997). In studies of natural populations of animals or plants where numerous parent-progeny triplets are examined it is usual to accept a single exclusionary event as evidence of nonpaternity (MARSHALL *et al.* 1998). Paternity testing has been extended to situations where DNA from either parent is unavailable. For example, paternity can still be established in circumstances where the putative father is deceased but his parents are still alive (HELMINEN *et al.*

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1991; BOCKEL, *et al.* 1992). CHAKRABORTY, *et al.* (1993) demonstrate that paternity can be determined in cases where the mother is unavailable for testing. LANG, *et al.* (1993) partially reconstructed the DNA profile of a missing crocodile parent using profiles of the mother and progeny.

CHAKRABORTY, *et al.* (1988) and SMOLCE and MEACHER (1994) report that reliance upon exclusion alone has usually failed to unambiguously resolve paternity. Limitations have stemmed from the use of an insufficient number of independent hypervariable loci. Other statistical methods are therefore required to calculate the likelihood of paternity for each nonexcluded male (BERRY and GEISSER 1986; MEACHER 1986; MEACHER and THOMPSON 1986; THOMPSON and MEACHER 1987; DEVLIN, *et al.* 1988; BERRY 1991). MARSHALL, *et al.* (1998) draw attention to the quality of data that is encountered practically in genotypic surveys. Maternal genetic data may or may not be available, data may be absent for some candidate males, data may be missing for some loci in some individuals, null alleles exist, and typing errors occur. Reconstructing or validating the pedigrees of varieties of cultivated plants often provides additional challenges because their phylogenies can reveal apparent exclusions that masquerade as non-Mendelian inheritance. For example, apparent exclusions can occur in circumstances where an individual is used as a parent prior to completion of the inbreeding process. The development of parent and progeny then continue on parallel but separate tracks thereby allowing the possibility that alleles that are subsequently lost through inbreeding in the parent can still become fixed in the progeny. It is also possible to create many offspring from a single mating and to use the same parent repeatedly in "backcrossing." Therefore, many individual inbred lines, varieties, or hybrids can be highly related. In consequence, there are numerous (and often very similar) pedigrees. The effective number of marker loci that can discriminate between alternate pedigrees is proportionally reduced as parents are increasingly related. Consequently, inbred lines can be more similar to one or more sister or other inbreds than those inbreds are to one or both of their parents.

It has not been usual to search among hundreds of individuals to identify the most probable maternal and paternal candidates for a specific progeny. Most studies of parentage are in circumstances where there is *a priori* information for at least one of the parents (usually the maternal parent). Limited availability of marker loci and the lack of very high-throughput genotyping systems offering inexpensive datapoint costs may have focused research on studies that involve relatively few individuals and where there is at least some *a priori* indication of parentage. Studies that have been conducted without *a priori* information on parentage include species where reproductive behavior renders identification of the maternal parent difficult or impossible. Examples include

those undertaken on birds that practice brood parasitism (ALDERSON, *et al.* 1999) or extra-pair copulation (WATSON, *et al.* 1992) or on species such as the wombat that are difficult to observe in the wild (TAYLOR, *et al.* 1997).

Two circumstances favor a revised approach to the statistical analysis of pedigree. First, molecular marker technologies are rapidly developing and will allow numerous loci to be typed for thousands of individuals rapidly and inexpensively. A greater number and diversity of larger-scale studies of pedigree can be expected within the plant and animal kingdoms including individuals in which there is no prior knowledge of pedigree. A larger number of markers mean a greater chance for errors. Therefore, the second circumstance follows: Procedures that are efficient and robust in the face of apparent exclusions, missing data, and laboratory error are required.

The purpose of this article is to describe and evaluate a methodology that can be used to quantify the probability of parentage of hybrid genotypes. We focus on parentage because it is the primary focus of published literature and it is the easiest level of ancestry to understand. The method is robust in the face of mutation, pseudo-non-Mendelian inheritance (apparent exclusions) due to residual heterozygosity in parental seed sources, missing data, and laboratory error. The methodology has a number of advantages: (i) It can accommodate large datasets of possible ancestors (hundreds of inbreds or hybrids each profiled by >100 marker loci), (ii) it does not require prior knowledge about either parent of the hybrid of interest, (iii) it does not require independence of the markers, and (iv) it can successfully discriminate between many highly related and genetically similar genotypes. We demonstrate the effectiveness of this approach to identify inbred parents of maize (*Zea mays* L.) hybrids using simple sequence repeat (SSR) marker profiles for 54 maize hybrids together with their parental and grandparental genotypes included among a total of 586 inbred lines. The methodology is applicable to the investigation of parentage for all progeny developed from parental mating without subsequent generations of inbreeding.

MATERIALS AND METHODS

Algorithm: Consider an index hybrid whose parentage is unknown or in dispute. Inbreds in an available database are possible ancestors of the hybrid. The objective is to find the probabilities of closest ancestry for each inbred on the basis of information from SSRs from the index hybrid and the inbreds. There is no reason to trim the database by removing inbreds thought to be unrelated to the index hybrid because their lack of relationship will be discovered.

Consider a pair of possible ancestors, inbred *i* and inbred *j*. There is nothing special about this particular pair as all pairs will be treated similarly. The process involves calculating the probability that inbreds *i* and *j* are in the hybrid's ancestry, repeating this for all pairs of inbreds in the database.

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The basis of the algorithm is Bayes' rule (e.g., BERRY 1991, 1996). Let $P(i, j|SSRs)$ stand for the (posterior) probability that i and j are ancestors of the index hybrid given the information from the various SSRs. Let $P(i, j)$ stand for the unconditional (or prior) probability of the same event. Finally, $P(SSRs|i, j)$ is the probability of observing the various SSR results if in fact i and j are ancestors. Bayes' rule says

$$P(i, j|SSRs) = P(SSRs|i, j) \times P(i, j) / \sum [P(SSRs|i, v) \times P(i, v)],$$

where the sum in the denominator is over all pairs of inbreds, indexed by v and v . $P(SSRs|i, j) \times P(i, j)$ is one of the terms in the denominator. (To compute the denominator in the above expression, fix a particular order to the inbreds in the database and take $u < v$ in expressions involving the pair (u, v) . If there are 586 inbreds, for example, then the number of pairs and the number of terms in the denominator is $586(587)/2 = 171,991$.) Inbreds i and j may be parents or grandparents or other types of relations or bear no relationship at all to the hybrid. If there are more than two ancestors in the database, such as both parents and all four grandparents, then the possible pairs involving these ancestors will generally have the highest posterior probabilities. If the hybrid's true parents are in the database, then as a pair they will typically have the highest overall posterior probability. If both i and j happen to be related to one particular parent of the hybrid, then as a pair their posterior probability will be low because they will not usually account for many of the alleles that are contributed by the other parent of the hybrid.

We will make the "no-prior-information" assumption that $P(u, v)$ is the same for all pairs (u, v) . This implies that this factor is cancelled from both numerator and denominator in the above expression, giving:

$$P(i, j|SSRs) = P(SSRs|i, j) / \sum P(SSRs|i, v).$$

The problem is then to calculate a typical $P(SSRs|i, j)$. Assume inbreds i and j are both ancestors. We calculate the probability of observing the resulting hybrid under this assumption. We make no assumptions about relationships among the various inbreds. Other possible ancestors will be considered implicitly in the calculation by allowing their alleles to be introduced through breedings with i and j . However, the nature of such breedings is not specified. Suppose inbred i 's alleles are (a, b) . Each descendant of inbred i receives one of these two alleles or not. An immediate descendant receives one with probability 1 (barring mutations). A second generation descendant receives one of them with probability 0.5. And so on. Since degree of ancestry (if any) is unknown, we label the actual probability of passing on one of these alleles to be P . Similarly, an allele from inbred j has been passed down to the hybrid or not, and the probability of the former is P . In the following, P will be taken to equal 0.50, although we will also consider $P = 0.99$ in some of the calculations.

Assuming $P = 0.50$ is consistent with the closest ancestors in the database being grandparents. However, we are not interested in grandparents *per se*. If the closest ancestors in the database were parents, then as indicated above P should equal 1 (ignoring mutations and laboratory errors). Our primary concern is when the parents are not in the database. In this case P is no greater than 0.50. Assuming $P = 0.50$ is robust over the middle range of possible values of P . One way in which it is robust is if there may be mutations and laboratory errors, in which case P would have to be < 1 . Taking P to equal 0.50 levies little penalty against a particular pair in which there is an apparent exclusion from direct parentage. Therefore taking P to be < 1 means that if the true parents are in the database then they will not be ruled out if there happen to be mutations and laboratory errors. And if the closest ancestors in the database are more remote than grandparents, they

are likely to be identified because they will usually have the fewest mismatches of the lines considered.

When i and j are ancestors there are four possibilities: (1) The alleles of both inbreds i and j were passed to the hybrid. (2) inbred i came through but not inbred j , (3) inbred j came through but not inbred i , and (4) neither inbred came through. Assuming independence, these have respective probabilities $P^2, P(1 - P), P(1 - P), (1 - P)^2$. In the case $P = 0.50$, all of these probabilities equal 0.25.

An instance of the law of total probability (Sec. 3.3, BERRY 1996) is that the probability of observing a hybrid's alleles is the average of the conditional probability of this event given the above four cases. The simplest of the four cases is the first possibility: Assuming the hybrid's alleles are passed down directly from both inbreds, the probability of observing the hybrid's genotype is either 1 or 0 depending on whether the hybrid shares both inbreds' alleles. (It is especially easy when both inbreds are homozygous.) The other three cases require an assumption regarding the possibility that an inbred's allele is not passed to the hybrid but is interrupted by a mutation, a laboratory error, or intervening breeding. We regard such an allele as being selected from all known alleles with probability $1/(number\ of\ alleles)$, where the number of alleles is the total number of alleles known to exist at the locus in question. An alternative approach would be to use the allelic proportions that are present in the database (or in another database). However, the lines in the database may not be randomly selected from any population. For example, a line that has been highly used in breeding would have many derivative lines in the database, in which case the frequencies of its alleles will be artificially inflated. Assuming equal probabilities for the various alleles at a given locus is robust in the sense that it is not affected by adding and dropping lines from the database.

There are many cases to consider when computing the probability of observing a hybrid's alleles, depending on the zygosity of the hybrid and the inbreds, and allowing for the possibility of missing alleles or "extra alleles" in the assessment of the hybrid and inbred genotypes. These possibilities are too numerous to list. Instead we give three simple examples. All the examples have homozygous inbreds, the most common case. And each of the three hybrids has two alleles, again the most common case. We suppose that the measured alleles for three SSRs and a particular trio of hybrid and ancestor inbreds are as we have indicated in Table 1.

For SSR 1 there are three known alleles, one in addition to alleles a and b that are listed for the three lines (hybrid, inbred i , and inbred j) in Table 1. For SSR 2 and SSR 3 there are two known alleles in addition to those listed. The calculations in the right half of Table 1 will now be explained. Implicit in calculating $P(SSR|i, j)$ is the assumption—required in both the numerator and denominator of Bayes' rule—that inbreds i and j are ancestors of the hybrid. Consider SSR 1. In case 1 above, both ancestors' alleles (as measured by the laboratory process) are assumed to pass to the index hybrid, and so in this case the hybrid is necessarily ab . The probability of observing the actual hybrid's genotype is 1 for case 1, as shown in Table 1. In case 2, we assume that inbred i 's allele passes to the hybrid but inbred j 's does not. Indeed, the hybrid has an a allele. The probability of observing a b as the other allele is $1/(number\ of\ alleles) = 1/3$, as shown in Table 1. Case 3 is similar. In case 4, neither ancestor allele is passed to the hybrid: the probability of observing the hybrid's genotype (or any heterozygous genotype) is $2(1/3)(1/3) = 2/9$. Since $P = 0.50$, the overall (unconditional) probability in the rightmost column (17/36) is the simple average of the four cases, as indicated in Table 1.

For SSR 2 and SSR 3 the calculations are similar. For SSR 2 there is some evidence against pair (i, j) being ancestors.

TABLE I

Probability of observing a hybrid's alleles using three sample SSRs and four possible combinations (cases) of alleles passed, assuming that inbreds *i* and *j* are ancestors of the hybrid

SSR	No. of alleles	Hybrid	Inbred <i>i</i>	Inbred <i>j</i>	Probability of observing the hybrid's genotype				Overall probability $P(\text{SSR} i, j)$
					Case 1 <i>i, j</i>	Case 2 <i>i, not j</i>	Case 3 <i>not i, j</i>	Case 4 <i>not i, not j</i>	
1	3	<i>ab</i>	<i>aa</i>	<i>Bb</i>	1	1/3	1/3	2/9	17/36
2	5	<i>bd</i>	<i>bb</i>	<i>Ci</i>	0	1/5	0	2/25	7/100
3	6	<i>ab</i>	<i>cc</i>	<i>Dl</i>	0	0	0	2/36	2/144

SSR, simple sequence repeat marker profile.

but it is not conclusive. For SSR 9 there is even less evidence favoring pair (*i, j*). It would not take many SSRs with evidence similar to that for SSR 3 to essentially rule out this pair—provided that other pairs are not similarly inconsistent.

To find the overall $P(\text{SSR}|i, j)$, multiply the individual $P(\text{SSR}|i, j)$ over the various SSRs. There are purely computational issues to address. Each $P(\text{SSR}|i, j)$ is a number between 0 and 1. When there are a great many SSRs, the product of these numbers will be vanishingly small. To lessen problems with computational underflow, for each SSR we multiply $P(\text{SSR}|u, v)$ by the same constant for each pair (*u, v*): the inverse of the largest possible such probability. For example, since 17/36 is the largest probability for a heterozygous hybrid at an SSR having three alleles (as is the case for SSR 1 in Table 1), we multiply all factors $P(\text{SSR}|u, v)$ by 36/17. To eliminate remaining problems with underflow, we do calculations using logarithms (adding instead of multiplying) and take antilogs at the end.

The probability $P(\text{SSR}|u, v)$ is calculated for all (*u, v*) pairs and summed over all possible pairings in the database, including that for the inbred pair under consideration: (*i, j*). This gives the denominator in the expression for $P(i, j|\text{SSRs})$.

To determine the probability that any particular inbred, say inbred *i*, is the closest ancestor of the index hybrid, sum $P(\text{SSR}|i, v)$ over all inbreds *v* with *v* ≠ *i*. Call this $P(i|\text{SSRs})$. The maximum of $P(i|\text{SSRs})$ for any inbred *i* is 1. But since there is one closest ancestor on each side of the family, the sum of $P(i|\text{SSRs})$ over all inbreds *i* is 2. If there is a particular pair (*i, j*) for which $P(i, j|\text{SSRs})$ is close to 1 then both $P(i|\text{SSRs})$ and $P(j|\text{SSRs})$ separately will be close to 1.

SSR data: DNA was extracted from 54 maize hybrids and from 386 maize inbreds. All of the hybrids and most inbreds are proprietary products of Pioneer Hi-Bred International; some important publicly bred inbred lines were also included. The inbred parents and grandparents of each hybrid were included within the set of inbreds. Other inbreds that were genotyped include many that are highly related by pedigree to parents and grandparents of the hybrids. The hybrids were chosen because each has a pedigree that is known to us and collectively they represent a broad array of diversity of maize germplasm that is currently grown in the United States ranging from early to late maturity.

A total of 195 SSR loci were used in this study following procedures described in SMITH *et al.* (1997), but modified as described below. SSR loci were chosen on the basis that they individually have been shown to have a high power of discrimination among maize inbred lines and collectively they provide for a sampling of diversity for each chromosome arm. Of these SSR loci, the following numbers (in parentheses) were located on individual maize chromosomes as follows: 1 (35), 2 (26), 3 (22), 4 (20), 5 (16), 6 (9), 7 (6), 8 (18), 9 (12), and 10

(14); 17 SSR loci have not yet been mapped. The correlations among the loci are unknown and are irrelevant for our methodology.

Sequence data for primers that allow many of these (and other) SSR loci to be assayed are available at website <http://www.agron.missouri.edu>. All primers were designed to anneal and amplify under a single set of conditions for PCR in 10- μ l reactions. Genomic DNA (10 ng) was amplified in 1.5 mM MgCl₂, 50 mM KCl, 10 mM Tris-Cl (pH 8.3) using 0.3 units AmpliTaq Gold DNA polymerase (PE Corporation) oligonucleotide primer pairs (one primer of each pair was fluorescently labeled) at 0.17 μ M and 0.2 mM dNTPs. This mixture was incubated at 95° for 10 min (hot start); amplified using 45 cycles of denaturation at 95° for 50 sec, annealing at 60° for 50 sec, extension at 72° for 85 sec; and then terminated at 72° for 10 min. A water bath thermocycler manufactured at Pioneer Hi-Bred International was used for PCR reactions. PCR products were prepared for electrophoresis by diluting 3 μ l of each product to a total of 27 μ l using a combination of PCR products generated from other loci for that same maize genotype (multiplexing) and/or dH₂O. Dilution of 1.5 μ l of this mixture to 5 μ l with gel loading dye was performed; it was then electrophoresed at 1700 V for 1.5 hr on an ABI model 377 automated DNA sequencer equipped with GENESCAN software v. 3.0 (PE-Applied Biosystems, Foster City, CA).

PCR products were sized automatically using the "local Southern" sizing algorithm (ELDER and SOUTHERN 1987). After sizing of PCR products using GeneScan, alleles were assigned using GenoPer software (PE-Applied Biosystems). Generally, allele assignments for each locus were made on the basis of histogram plots consisting of 0.5-bp bins. Breaks between the histogram plots of >1 bp were generally considered to constitute separation between allele bins; however, other criteria, such as the presence of the noncomplementary-directed addition of adenine (+A addition) and naturally occurring 1-bp alleles, were used on a marker-by-marker basis to define the allele dictionary. All allele scores were made without knowing the identities of the maize genotypes.

RESULTS

Table 2 presents the probability of closest ancestry of the top five ranking inbred lines for each of 5 hybrids at $P = 0.30$ (Table 2A) and $P = 0.99$ (Table 2B). Probabilities of ancestry are shown for all 54 hybrids and the top ranking inbreds in Figure 1: $P = 0.50$ (Figure 1a) and $P = 0.99$ (Figure 1b). Results for the hybrids presented in Table 2 are featured at the top of Figure 1.

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TABLE 2

Probability of ancestry of five hybrids using data obtained from 50, 100, and 195 SSR loci

Hybd.	Inbd.	50 loci		100 loci		195 loci		
		Prob.	SE	Inbd.	Prob.	SE	Inbd.	Prob.
A. Assuming $P = 0.50$								
3417	SP1	0.9607	0.0123	P1	0.8749	0.0252	P1	1.0000
	P2	0.8077	0.1963	P2	0.8141	0.2233	P2	0.9957
	D2P2	0.1016	0.1038	D1P2	0.1839	0.2933	D1P2	0.0013
	D1P2	0.0907	0.0927	SP1	0.1213	0.025	D2P2	E-06
	P1	0.032	0.0123	D1P1	0.0009	0.0002	SP1	E-06
3525	P1	0.9545	E-07	P1	0.9999	<E-20	P1	1.0000
	P2	0.8158	E-07	P2	0.5437	<E-20	P2	0.9635
	D1P2	0.1699	E-07	D1P2	0.4563	<E-20	D1P2	0.0365
	CP1	0.1441	E-07	CP1	E-07	E-18	SP1	E-15
	CP2	0.0110	E-08	SP1	E-07	<E-20	CP2	E-16
3536	P1	1.0000	E-06	P1	0.9999	E-10	P1	1.0000
	P2	0.9616	E-08	P2	0.9997	E-10	P2	1.0000
	D1P2	0.0540	E-10	D1P2	0.0009	E-14	D1P2	E-09
	CP2	0.0043	E-09	D2P2	E-05	E-15	D2P2	E-14
	D3P2	0.0002	E-10	D3P2	E-06	E-17	CCP2	E-17
3905	D1P1	0.9822	E-08	D1P1	0.9803	0.0058	P1	1.0000
	SP2	0.4927	E-07	SP2	0.6930	0.0976	D1P2	1.0000
	D2P2	0.2836	E-07	D1P2	0.2921	0.0617	D2P2	E-06
	D1P2	0.1622	E-07	D2P2	0.1317	0.0372	P2	E-07
	P2	0.0365	E-07	P1	0.0197	0.0053	D3P2	E-10
3940	P2	0.9997	0.0001	P2	0.9999	E-05	P2	1.0000
	D1P2	0.9203	0.0009	P1	0.9970	0.0011	P1	1.0000
	P1	0.0648	E-05	D1P2	0.0030	0.0011	D1P2	E-11
	D1P1	0.0127	E-05	D2P2	0.0001	E-05	D1P1P2	E-17
	D1P1P2	0.0014	0.0009	D1P1P2	0.0001	E-07	D2P2	E-19
B. Assuming $P = 0.99$								
3417	SP1	0.9995	0.0001	P1	0.9999	E-05	P1	0.9999
	P2	0.8836	0.1658	P2	0.9938	0.0107	P2	0.9999
	D1P2	0.0722	0.1029	D1P2	0.0061	0.0107	D1P2	E-11
	D2P2	0.0441	0.0628	D1P1	E-05	E-06	D2P2	E-14
	P1	0.0004	0.0001	SP1	E-05	0	SP1	E-20
3525	P1	0.9999	0	P1	0.9999	0	P1	1.0000
	P2	0.8991	0	D1P2	0.9749	0	P2	0.6135
	D1P2	0.1008	E-11	P2	0.025	0	D1P2	0.3864
	CP1	E-05	0	D2P2	E-20	0	CP2	E-48
	CP2	E-06	E-17	SP1	E-24	0	D2P2	E-49
3536	P1	1.0000	0	P1	1.0000	0	P1	0.9999
	P2	0.9996	0	P2	0.9999	0	P2	0.9999
	D1P2	0.0003	0	D1P2	E-09	0	D1P2	E-22
	D1P1	E-11	0	D3P1	E-21	0	D2P1	E-49
	D2P1	E-13	0	D2P1	E-21	0	D3P1	E-34
3905	D1P1	0.9999	0	D1P1	0.9999	E-08	P1	1.0000
	P2	0.9992	0	P2	0.9999	E-06	P2	0.9947
	SP2	0.0006	0	D1P2	E-06	E-06	D1P2	0.0052
	D1P2	E-05	0	SP2	E-07	E-13	D2P2	E-13
	D2P2	E-06	0	D2P2	E-09	E-10	D1P1	E-25
3940	P2	0.9999	E-08	P2	1.0000	E-08	P1	1.0000
	D1P2	0.9999	E-08	P1	0.9999	E-05	P2	1.0000
	P1	E-06	E-13	D1P2	E-05	E-05	D1P2	E-24
	D1P1	E-08	E-15	D2P2	E-12	E-11	D1P1P2	E-44
	D1P1P2	E-12	E-12	D1P1P2	E-21	E-21	D2P2	E-50

Hybd., hybrid; Inbd., inbred; Prob., probability; SE, standard error, referring to the variability in the results of the runs; P1, parent one; P2, parent two; SP1, SP2, full sibling of parent one/parent two; D1P1/D1P2, derivatives of parent one; parent two, index i for distinct inbred lines; D1P1P2, derivatives of both parent one and parent two.

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a
Hybrids

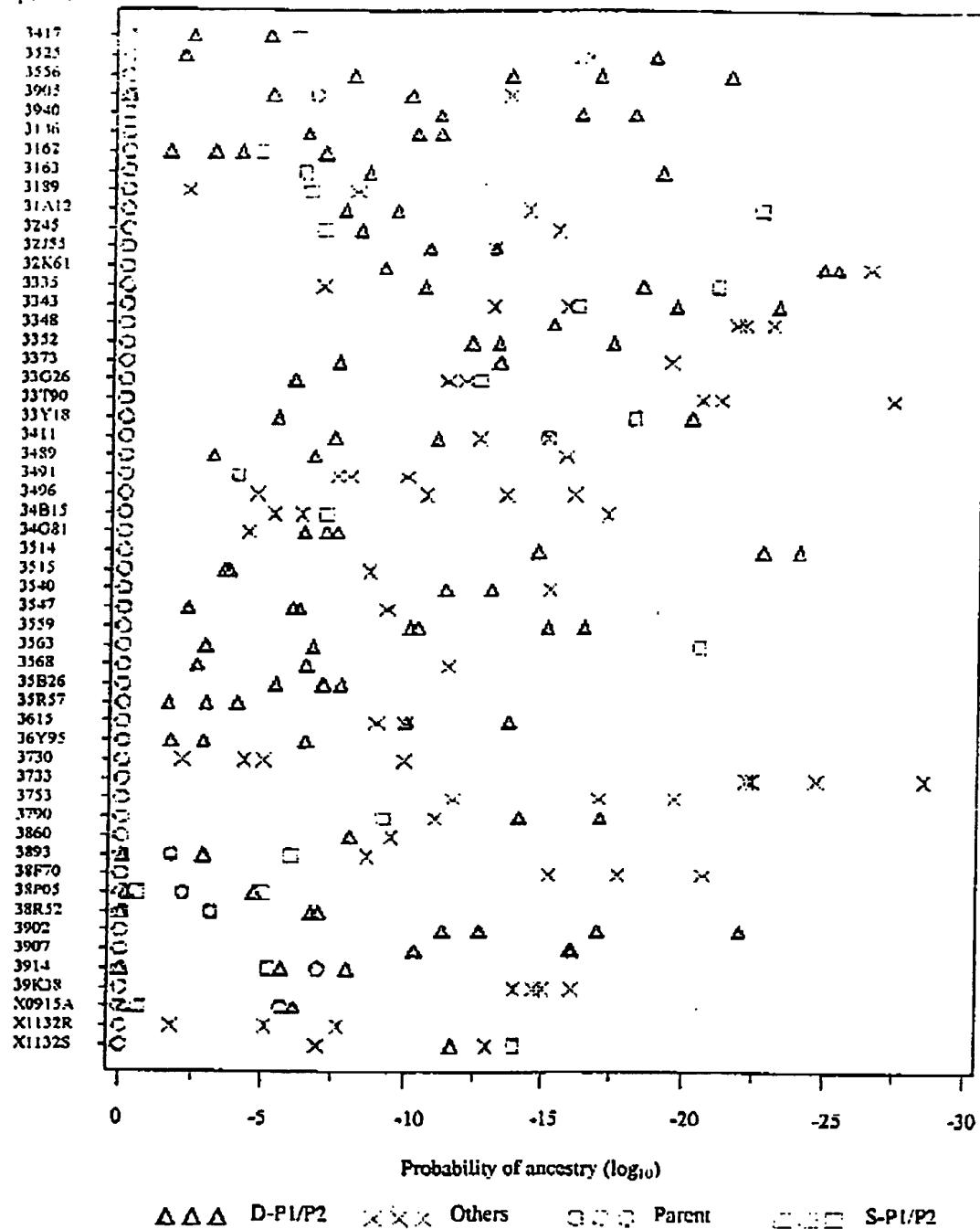


FIGURE 1.—(a) Probabilities of ancestry, assuming $P = 0.30$, for all 54 hybrids and top ranking inbreds—those with probability of ancestry at least 10^{-6} . (b) Probabilities of ancestry, assuming $P = 0.99$, for all 54 hybrids and top ranking inbreds—those with probability of ancestry at least 10^{-6} .

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b
Hybrids

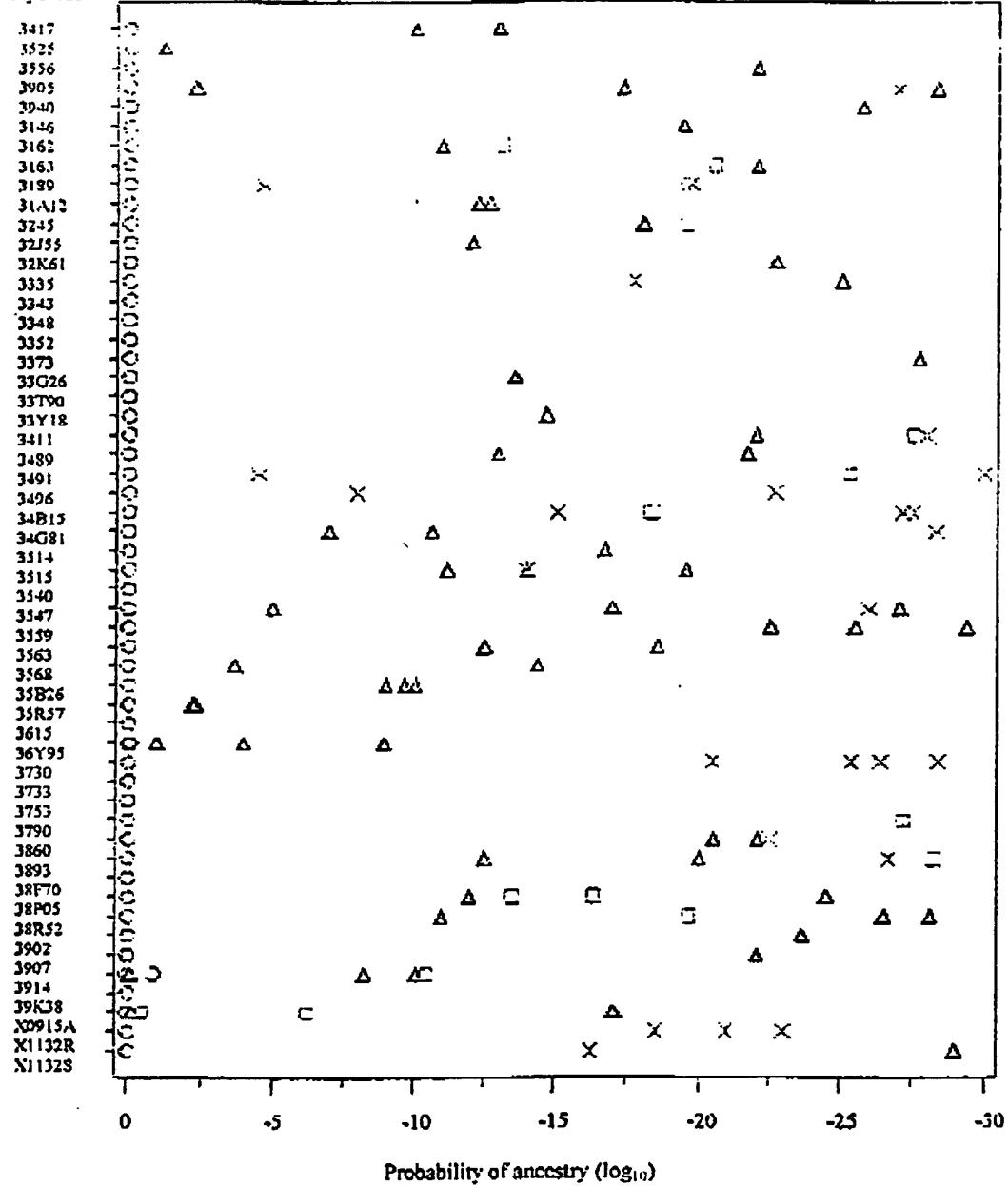


FIGURE 1.—Continued.

When the algorithm used $P = 0.50$, the two correct parents were identified as highest in probability for 48 (89%) hybrids (Figure 1). For each of 6 hybrids (38P05, 38R52, 3905, 3914, and N0915A), one parent ranked in the top two places. The other parent was supplanted either by a sister inbred or by an inbred that

was a direct progeny of that parent. Overall, 102 (94%) of 108 parental inbreds were correctly identified. For hybrids where both parents ranked first or second, the range of probabilities for parental lines that ranked first from among all other inbreds ranged from 1.0000 to 0.9997; parental lines ranking second ranged from

1.0000 to 0.9653. For 35 hybrids, both parents had probabilities of ancestry in excess of 0.999. Probabilities of ancestry for nonparents that ranked in first or second places were from 0.9999 to 0.7054. For the majority of hybrids, the probability of the third and highest ranked nonparental inbred was at or below E-06. This indicates that there is usually very little uncertainty about closest ancestors.

When the algorithm used $P = 0.99$ to examine each of the 54 hybrids, both parents were correctly identified for 52 (96%) of hybrids and for 98% (102-104) of the parents across all hybrids (Figure 1). Two hybrids (3914 and X0915A), in which one parent was not ranked in the top two, were also in the subset not ranked in the top two assuming $P = 0.50$ (above). In both cases their ranks improved (both to third rank) and the actual parent was supplanted by an inbred that was a direct progeny of the corresponding parental line. For 49 hybrids, both parents had probabilities of ancestry in excess of 0.999. Among the 5 hybrids having a parent ranking second with a probability of ancestry below 0.999, the lowest of these probabilities was 0.8976 and the highest probability for a third ranking nonparent was 0.1023. For most hybrids the probability for the third and highest ranked nonparental inbred was at or below E-10.

Table 2 also addresses data analysis in circumstances where heterozygous loci occur in inbred lines or where a hybrid is scored for the presence of more than two alleles per locus. The presence of more than a single allele per locus in inbred lines is an infrequent occurrence in well-maintained inbred development and seed increase programs but is possible because ~3-5% of loci can still be segregating and unintended pollination from genotypes not designated as parents of the hybrid can occur. For hybrids, more than two alleles per locus can be scored when DNA is extracted from a bulk of individual plants and because inbred parents are not homozygous due either to residual heterozygosity or to contamination or because one or more direct parents of the hybrid are themselves hybrids. The presence of more than one allele per locus in an inbred line and more than two alleles per locus in a hybrid therefore can be accommodated by multiple runs of the algorithm, each with a random choice of two alleles per locus. Consequently, standard errors in the case of analyzing data from 195 loci tend to be very small because there were few loci where an inbred or hybrid sample (from a bulk of individual plants) was scored for more than two alleles.

MARSHALL et al. (1998) have drawn attention to errors that can be encountered in genotyping surveys. These errors include missing data, null alleles, and typing errors. We therefore investigated the robustness of the algorithm by examining the effects of modifications in the data for five hybrids (3417, 3525, 3556, 3905, and

3940). First, we reduced the number of SSRs used, from the full set of 195 to 100 and then to 50 (Table 2). Use of 50 loci generated incorrect rankings of one parent for each of two hybrids (3417 and 3940) and for both parents of one hybrid (3905). All of these most highly ranked nonparental inbreds were closely related to the true parents for each of the respective hybrids: six different inbred lines were involved. Four were direct progeny of the true parents (one with additional backcrosses from the true parent) and two were full sisters (from a cross of highly related inbreds) of the actual parent of the hybrid. Using 100 loci resulted in correct parental rankings for all hybrids except for 3905 where neither parent ranked in first or second place. Four inbreds outranked the true parents of 3905. All four nonparents were closely related to the respective true parents; three were direct progeny of the true parent of the hybrid (one with additional backcrossing to that parent) and one was a full sister of the true parent. Use of data from all 195 loci corrected the placement for one of the parents of hybrid 3905. Two inbreds that were not parents of this hybrid remained ranked more highly than one of the true parents. Both were direct progeny of that parent, and one of these inbreds had additional backcrossing to that parent in its pedigree.

To address the consequences of laboratory and other sources of error, we artificially compromised data quality beyond the level originally provided by eliminating specific proportions of alleles that had been scored (establishing scenarios where various numbers of SSR alleles were not scored) and by misscoring other alleles (establishing scenarios where various numbers of SSR alleles were scored incorrectly). We also combined the scenarios of missing data and wrongly scored data. Table 3 contains a summary of the results of making these modifications in the data. For all modifications we used data from all SSR loci and we also randomly chose SSR loci to create subsets of 50 and 100 loci. In each case, the program was run 20 times for each hybrid/set of loci. When all 195 loci were examined, replications differed only according to the particular choice of alleles for loci where more than two alleles had been scored.

To evaluate robustness in the face of missing data or mistyped data, we simulated individual and combined categories of these data in the hybrid and all inbred lines at levels of 2, 5, 10, and 25% of the alleles for each of five hybrids and all inbreds beyond the level of error as originally scored by the laboratory. We examined the effects of these levels and types of error for three sizes of database: 50 loci, 100 loci, and all 195 scored loci. The same five hybrids considered in Table 2 were investigated: 3417, 3525, 3556, 3905, and 3940. One of these hybrids (3905) was chosen because one of its parents did not rank among the top two places even when the complete and unmodified data from all SSR loci were used.

Examples of robustness in the face of additional error

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TABLE 3
Number of parents ranked in first and second positions (maximum is 2)

Type of simulated data	% level change	No. of loci	Hybrid												Mean of max.	
			3-17			15-25			35-51			90-95				
			50	100	195	50	100	195	50	100	195	50	100	195		
Missing	0	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	2	-	21	21	21	21	21	21	21	21	21	21	21	21	21	73
	5	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	10	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	25	-	21	21	21	21	21	21	21	21	21	21	21	21	21	57
	Mean % max.	-	40	100	190	50	100	190	100	100	100	50	50	50	50	57
Missed	0	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	2	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	5	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	10	-	21	21	21	21	21	21	21	21	21	21	21	21	21	73
	25	-	21	21	21	21	21	21	21	21	21	21	21	21	21	73
	Mean % max.	-	50	70	100	90	80	100	90	100	100	10	50	50	100	63
Missing plus missed	0	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	2	-	21	21	21	21	21	21	21	21	21	21	21	21	21	77
	5	-	21	21	21	21	21	21	21	21	21	21	21	21	21	70
	10	-	21	21	21	21	21	21	21	21	21	21	21	21	21	7
	25	-	21	21	21	21	21	21	21	21	21	21	21	21	21	17
	Mean % max.	-	40	90	100	70	70	80	80	80	80	10	50	50	100	50
Overall mean	-	-	43	87	100	89	77	87	90	93	90	7	50	47	90	93

Hybrids considered are the same as those in Table 2.

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for five hybrids using subsets of 50 and 100 loci and all loci are shown in Table 3 where numbers of parents ranking into the top two places are presented. Degradation in the preferential ranking of parent inbreds at a level of 25% additional missing data was shown for one hybrid (3525) with usage of 50, 100, or all SSR loci. Degradation in the preferential ranking of parent inbreds at a level of 25% additional misscored data was shown for hybrid 3556. When both additional levels of missing and misscored data were simulated, degradation in the ability to preferentially rank inbred parents occurred for all hybrids and for all sets of SSR (50, 100, and 195 loci) except for hybrid 3417 when data from 195 SSR loci were used. Over all five hybrids, use of 100 loci improved robustness from the use of 50 loci; use of 195 loci further improved robustness for four hybrids (3417, 3525, 3905, and 3940). The degree of improvement was small, except for hybrid 3905.

We also ranked inbreds according to their probability of ancestry of hybrids when both parents and all inbred derivatives and full-sister inbreds of the respective inbred parents for each hybrid were excluded from the analysis. The results are too voluminous to present here but can be summarized as follows: Using $P = 0.50$, a grandparent of each respective hybrid ranked into first place for 41 (76%) hybrids; probabilities ranged from 0.4976 to 1.0 and most were above 0.9999. Other classes of inbreds that ranked in first position for probability of ancestry were inbreds derived directly by pedigree from a grandparent of the respective hybrid (DGP) for 13% of hybrids, inbreds derived directly by pedigree from a great-grandparent of the respective hybrid (DGGP) for 9% of hybrids, and one class (2% of hybrids) with an inbred ranked into first place that was directly related by pedigree to the great-great-grandparent of that hybrid. Inbreds that ranked in second position were related to the respective parents of the hybrid as follows: Thirty-one (57% of hybrids) were a grandparent of the respective hybrid, 11 (20%) were classed as DGP, 7 (13%) were DGGP, 1 (2%) was class DGGGP, and 4 (7%) were a great-grandparent (GGP) of the respective hybrid. Over all hybrids, two of the four grandparents ranked into first and second positions for 23 (43% of hybrids); three grandparents ranked into the first three positions for 5 (9% of hybrids). There were no instances where all four grandparents ranked into the first four positions. Thirty hybrids had a grandparent ranked into first position using $P = 0.99$. The number of grandparents ranked into the top five positions was 93 (compared to 108 when $P = 0.50$). The number of grandparents ranking into the top two positions was 53 (compared to 71 when $P = 0.50$). The mean probability of a grandparent that ranked into the first two positions was 0.9288 ($SD = 0.1154$) when $P = 0.50$ and 0.9980 ($SD = 0.0104$) when $P = 0.99$.

DISCUSSION

The prevalent use of paternity indices demonstrates that it is advantageous to have explicit probabilities of ancestry to distinguish among different pedigrees. Molecular marker profiles are rapidly becoming more extensive and cost effective to generate. Features that would advance the statistical analysis of molecular marker data to provide explicit probabilities of ancestry include the ability to calculate probabilities of ancestry where there is no *a priori* information as to the identity of one (usually the maternal) parent and robustness in the face of laboratory error.

Maize inbred lines and hybrids provide a very exacting set of materials for evaluating the discriminatory abilities of molecular data and statistical procedures that are employed to interpret those data. Hundreds of maize inbred lines of known pedigree together encompass a great diversity and complexity of pedigree relationships. Some inbred lines can be very highly related and genetically similar due to their derivation from common parentage including from parents that are themselves highly related. Consequently, relationship categories such as "sister" or "parent" when applied to maize inbreds usually refer to closer degrees of pedigree relationship and, thus, of germplasm and molecular marker profile similarity than those of the equivalently named classes of relationship for animal species. Most maize hybrids that are widely used in the United States today are constructed from pairs of inbred lines that are unrelated by pedigree, each inbred parent having been bred from a separate "pool" of germplasm. Various degrees of relatedness are possible between hybrids according to the pedigree relationships among their constituent inbred parents.

Using $P = 0.99$ in the algorithm is more specific for identifying parents than using $P = 0.50$. However, $P = 0.99$ is less robust for identifying other relatives, such as grandparents. When the algorithm was run at $P = 0.50$ there were 6 hybrids for which one parent did not rank among the top two most probable genotypes. For the remaining 48 hybrids the correct parents were identified even in circumstances where other candidate inbreds included not only full-sister lines bred from related parents but also inbreds even more closely related to the true parent by virtue of being backcross conversions of the inbred parent of the hybrid. For each of the 6 hybrids where a nonparent ranked above a true parent, that higher ranked inbred was always either a sister or progeny of the outranked true parent. The range of pedigree relationships as expressed by the Malécot coefficient of relatedness (MALECOT 1948) that was encompassed by pairs of true parents and more highly ranked inbred relatives of the true parents was from 0.8390 to 0.9680. A coefficient of 0.8390 approximates a relationship between inbred A and A' where

Probability of Ancestry Using SSR

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inbred A' has been bred from a cross of inbreds A and B with between one and two additional backcrosses of the parental inbred A. A Malécot coefficient of relationship of 0.9680 closely approximates a relationship between inbreds A and A'' where four additional backcrosses of parental inbred A follow the initial cross of inbreds A and B.

Running the algorithm at $P = 0.99$ in comparison to $P = 0.50$ raises the probability of ancestry for the parents while diminishing the probabilities for the third and lower ranking candidate inbred lines. Use of the algorithm at $P = 0.99$ increased both the percentage of hybrids with both parents ranked in the first two positions (from 89 to 96%) and the percentage of parental inbreds that were ranked first and second (from 94 to 98%). Two hybrids (8914 and X0915A) did not have both parents ranked first and second when the algorithm was run at $P = 0.99$. For both of these hybrids the nonparental inbred that outranked the true parent was itself a product by pedigree from the true parent that had been created by an additional four backcrosses of that parent; the Malécot coefficient of relationship between the parent of the hybrid and the inbred that outranked that parent for these two hybrids was 0.9636.

Robustness was tested by evaluating the effects of using data from different numbers of loci and by simulating additional levels of missing and misscored data up to combined levels of 25% error beyond that which was provided by the laboratory. From our experience, error rates of 5 to 10% can occur in SSR profiling of maize due chiefly to the combined effects of residual heterozygosity among seed lots and by deficiencies in the scoring of heterozygotes in hybrids. The additional levels of simulated error, therefore, include values (up to ~85% total error) that are well outside of our experience. For five hybrids that were examined, increasing the number of loci from 30 to 100 (with no additional missing or misscored data) did reduce the number of instances where inbreds that were not parents of a hybrid outranked the true parent from four to one. Nonetheless, all of these more highly ranked inbreds, although they were not themselves the true parents of the respective hybrid, were either direct progeny or full sisters of the true parent (Table 2). Consequently, if such degrees of error can be tolerated in respect of pedigrees for inbreds that are identified as parents of hybrids, then SSR data from 50 loci of equivalent discrimination ability are sufficient. Use of data from 50 loci also evidenced robustness in the face of up to 10% additional levels of either missing or misscored data; no degradation in the ability to identify a parent was apparent up to the level of 10% additional error except for 10% additional missing and misscored alleles for one hybrid (3325; Table 3). However, use of 100 loci increased the proportion of true parents that were correctly identified from 53% (for 50 loci) to 71% (mean correct parents over all

levels of error; Table 3). Use of data from 195 loci provided greater resiliency against additional levels of error. However, use of data from 195 loci was unable to provide resiliency against the negative effects of adding combined levels (at 25%) of both missing and misscored data (Table 3). At the 25% level of additional poor data integrity, inbreds that were not related to the true parent of the hybrid outranked the true parent for four of the five hybrids. Levels of missing or misscored data should, therefore, be kept below 15–20% (assuming a level of 5–10% error in the data we analyzed prior to simulating additional error).

We have previously examined the pedigrees of inbreds that are ranked into the first two positions when the true parents are removed from the list of candidate inbred lines. Usually, direct progeny or full sisters of the true parents then rank most highly (data not presented). We therefore examined the rankings of inbreds with respect to their ranking and probability of inclusion in the ancestry of each hybrid after the removal, not only of the true parents, but also of the progeny of the true parents and any full sisters of the true parents. In these circumstances the grandparents of the hybrids are ranked predominantly into top positions. Using $P = 0.50$, a grandparent ranked into first position for 76% hybrids and into second position for 57% hybrids; with $P = 0.99$ a grandparent ranked into first place in 56% of hybrids. At $P = 0.50$ two grandparents ranked into first and second positions for 43% hybrids and into the first three positions for an additional 9% hybrids. Most of the remaining inbreds that ranked into the top two positions were progeny of the grandparent. A total of 108 grandparents ranked into the top five positions when $P = 0.50$; 93 ranked into these positions when $P = 0.99$. Seventy-one grandparents ranked into the top two positions when $P = 0.50$; 55 grandparents ranked into these positions when $P = 0.99$. The mean probability of a grandparent in the top two positions was 0.9288 (SD 0.1454) when $P = 0.50$ and 0.9980 (SD 0.0104) when $P = 0.99$. Our algorithm was written to identify pairs of ancestors; alternative algorithms could be tailored to identify all grandparents once parents had been identified and removed from the list of candidate inbreds.

We have demonstrated the capability and robustness of an algorithm that can be used to show probability of parentage in circumstances where the *a priori* pedigree identity of neither parent is known. Exclusions are taken into account, thereby allowing parentage to be shown even when the two parents are not represented in the database of molecular profiles that are examined. Heterozygous candidate parents can be accommodated. The number of loci that is necessary to provide a reliable basis of determining pedigree is dependent upon the degree of relatedness among parents and nonparents and upon the discriminatory ability of the marker system

in the species of interest. Using $P = 0.99$ compared to $P = 0.50$ preferentially identified more true parents and with a greater difference of probability to third placed nonparents. If there is reasonable assurance that the parents are among the candidate list of inbreds, then $P = 0.99$ should be used; if greater robustness is required, then $P = 0.50$ should be used.

Applications of our algorithm include the identification of pedigrees among individuals of plant or animal species where molecular profile datasets exist that can be interpreted in terms of segregating alleles at individual marker loci and that provide a sufficient power of discrimination. Capabilities to generate large datasets of suitable molecular profile data are already available and are increasing rapidly with the advent of single nucleotide polymorphisms. One further application of our algorithm is to assist in the protection of intellectual property that is obtained on plant varieties or upon specific dams or sires of animals through the determination of pedigrees.

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Attorney Docket No. 1334

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mario R. Carlone, Jr. and Date: March 11, 2003
Stephen W. Noble, Jr.

Serial No.: 09/758,802 Group Art Unit: 1638

Filed: January 11, 2001 Examiner: David T. Fox

For: "INBRED MAIZE LINE PH581"

Assistant Commissioner for Patents
Washington, D.C. 20231

RULE 132 DECLARATION
OF
DR. DINAKAR BHATTRAMAKKI

Sir:

I, Dinakar Bhatramakki, Ph.D., do hereby declare and say as follows:

1. I am skilled in the art of the field of the invention. I have a Ph.D. in Plant Molecular Genetics from the University of Illinois at Urbana-Champaign. I have a Bachelor of Science degree in Agricultural Sciences from the University of Agricultural Sciences, Bangalore, India. Since 1997 I have been engaged in the analysis of molecular markers for plants. I have supervised the Molecular Marker Applications lab at Pioneer Hi-Bred International, Inc. from January 2002 until the present.
2. I am familiar with the methods used in the analysis of Simple Sequence Repeat, SSR, marker data for inbred PH581 conducted at Pioneer Hi-Bred International, Inc. The analysis of the SSR profile of inbred PH581 may be accomplished without any undue experimentation. The SSR profile for inbred PH581 is attached hereto.
3. Means of performing this genetic marker profile are well known in the art. SSRs are genetic markers based on polymorphisms in nucleotide sequences. The PCR™ detection of SSRs is accomplished by using two oligonucleotide primers

Appendix E

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flanking the polymorphic segment of DNA. Amplification is accomplished through repeated cycles of heat denaturation of the DNA followed by annealing of the primers to their complementary sequences at low temperatures, and extension of the annealed primers with DNA polymerase.

4. Markers are scored following amplification and gel electrophoresis of the amplification products. Scoring of marker genotype is based on the size or weight of the amplified fragment. While variation in the primer used or in laboratory procedures can affect the reported marker score, relative values remain constant regardless of the specific primer or laboratory used.

5. Primers that may be used to identify the SSR markers reported herein are publicly available and may be found in the Maize DB on the World Wide Web at agron.missouri.edu/maps.html (sponsored by the University of Missouri), In Sharopova et al. (Plant Mol. Biol. 48(5-6):463-481) and/or in Lee et al (Plant Mol. Biol. 48(5-6); 453-461). Markers shown for PH581 are the publicly available markers in the sources listed above for which PH581 was tested and shown to be homozygous.

6. Map information is provided by bin number as reported in the Maize DB. The bin number digits to the left of decimal point typically represent the chromosome on which such marker is located, and the digits to the right of the decimal typically represent the location on such chromosome.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 3/10/03

By:

Dinakar Bhatramakki

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Public Name of Marker	bin #	PH581 base pairs
phi427913	1.01	129.38
bnlg1014	1.01	131.78
phi056	1.01	249.32
bnlg1083	1.02	221.86
bnlg1127	1.02	96.21
bnlg1953	1.02	205.80
bnlg1429	1.02	190.09
bnlg1627	1.02	204.35
bnlg439	1.03	232.00
phi109275	1.03	139.59
phi339017	1.03	145.56
bnlg1203	1.03	306.51
bnlg1484	1.03	143.49
bnlg2086	1.04	225.83
bnlg2238	1.04	228.62
bnlg1832	1.05	223.63
bnlg1886	1.05	141.48
bnlg1057	1.06	249.42
bnlg1041	1.06	194.58
bnlg1615	1.06	232.40
bnlg1556	1.07	207.66
phi323065	1.08	317.66
phi335539	1.08	91.69
phi423298	1.08	133.68
phi002	1.08	69.78
bnlg1331	1.09	121.03
phi011	1.09	226.98
phi308707	1.10	131.11
phi227562	1.11	319.44
phi265454	1.11	217.66
phi064	1.11	74.22
phi402893	2.00	212.91
phi96100	2.01	280.53
bnlg1017	2.02	195.57
bnlg2277	2.02	294.16
bnlg1064	2.03	188.18
bnlg1018	2.04	138.37
bnlg1909	2.05	295.14
bnlg1138	2.06	223.89
bnlg1396	2.06	133.20
bnlg1831	2.06	189.90
phi251315	2.07	123.79

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Public Name of Marker	bin #	PH581 base pairs
phi328189	2.08	121.35
phi427434	2.08	137.07
phi435417	2.08	214.27
bnlg1141	2.08	178.62
bnlg1940	2.08	208.70
phi127	2.08	122.04
bnlg1520	2.09	296.30
phi101049	2.10	244.88
phi453121	3.00	217.80
phi104127	3.01	169.96
phi404206	3.01	300.24
phi193225	3.02	136.71
phi374118	3.02	222.89
bnlg1144	3.02	157.89
bnlg1647	3.02	163.74
bnlg1523	3.03	264.89
bnlg1019	3.04	155.02
bnlg1113	3.04	134.41
bnlg1452	3.04	125.59
bnlg1035	3.05	101.06
phi053	3.05	166.74
phi102228	3.06	135.04
bnlg1160	3.06	222.23
bnlg1951	3.06	126.99
bnlg2241	3.06	116.46
phi072	4.00	139.43
phi213984	4.01	284.60
phi295450	4.01	184.83
bnlg1162	4.03	104.11
phi308090	4.04	218.64
phi096	4.04	234.58
phi438301	4.05	208.45
bnlg1159	4.05	147.81
bnlg1755	4.05	216.63
bnlg1937	4.05	227.36
bnlg1265	4.05	213.91
phi079	4.05	177.74
bnlg1189	4.07	129.65
bnlg2244	4.08	216.18
bnlg1006	5.00	216.82
phi396160	5.02	298.12
phi109188	5.03	167.28
bnlg653	5.04	151.67

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Public Name of Marker	bin #	PH581 base pairs
phi330507	5.04	136.53
phi331888	5.04	134.18
bnlg1208	5.04	118.88
bnlg1892	5.04	158.09
phi333597	5.05	213.82
phi085	5.06	256.26
bnlg1118	5.07	80.70
bnlg1711	5.07	176.65
phi423796	6.01	128.39
phi389203	6.03	306.15
phi452693	6.04	130.98
bnlg1174	6.05	218.72
phi299852	6.07	110.58
phi364545	6.07	131.46
bnlg1740	6.07	236.30
bnlg1759	6.07	127.78
phi070; umc1063	6.07	81.05
phi034	7.02	137.50
bnlg2271	7.03	219.98
phi260485	7.05	301.94
phi051	7.05	138.57
phi069	7.05	195.31
phi116	7.06	168.82
phi420701	8.00	291.88
phi100175	8.03	136.75
bnlg2082	8.03	172.52
phi115	8.03	302.63
phi121	8.03	97.90
bnlg2046	8.04	320.35
bnlg1176	8.05	217.94
bnlg1152	8.06	121.65
bnlg1065	8.07	215.69
bnlg1056	8.08	110.49
phi015	8.08	94.16
phi233376	8.09	136.10
bnlg2122	9.01	219.19
bnlg1012	9.04	171.18
phi032	9.04	236.63
phi108411	9.05	122.38
phi236654	9.05	122.93
bnlg619	9.07	272.68
phi041	10.00	202.94

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Public Name of Marker	bin #	PH581 base pairs
phi96342	10.02	252.35
phi059	10.02	153.35
bnlg1079	10.03	170.34
phi050	10.03	83.27
phi301654	10.04	128.33
phi062	10.04	161.07
phi323152	10.05	134.72
bnlg1074	10.05	161.94
bnlg1185	10.07	151.61
bnlg1450	10.07	189.35
phi109642	2.03/2.04	137.61
bnlg1720	1.09/1.10	236.44
phi159819	6.00/6.08	135.83
phi448880	9.06/9.07	182.99

#8 attach

What is an "Essentially Derived Variety"?

The concept of essentially derived variety was introduced into the 1991 Act of the UPOV Convention in order to avoid plagiarism through mutation, multiple back-crossing and to fill the gap between Plant Breeder's Rights and patents, gap which was becoming important due to the development of the use of patented genetic traits in genetic engineering.

An essentially derived variety is a variety which is distinct and predominantly derived from a protected initial variety, while retaining the essential characteristics of that initial variety.

As indicated as an example in the UPOV Convention, essentially derived varieties may be obtained by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, back-crossing, or transformation by genetic engineering.

The commercialization of an essentially derived variety needs the authorization of the owner of the rights vested in the initial variety.

The concept of essentially derived variety does not at all abolish the Breeder's Exemption, as free access to protected plant varieties for breeding purposes is maintained. It is not a threat to biodiversity. On the contrary, it favors biodiversity, encouraging breeders developing and marketing original varieties.

Appendix F

11/22/2002

INTERNATIONAL CONVENTION
FOR THE
PROTECTION OF NEW VARIETIES OF PLANTS

of December 2, 1961, as revised
at Geneva on November 10, 1972,
on October 23, 1978, and
on March 19, 1991

adopted by the Diplomatic Conference
on March 19, 1991

reproduced from UPOV Publication No. 438(E)
issue No. 63 of "Plant Variety Protection"

1991 Act of the Convention

Article 12Examination of the Application

Any decision to grant a breeder's right shall require an examination for compliance with the conditions under Articles 5 to 9. In the course of the examination, the authority may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out. For the purposes of examination, the authority may require the breeder to furnish all the necessary information, documents or material.

Article 13Provisional Protection

Each Contracting Party shall provide measures designed to safeguard the interests of the breeder during the period between the filing or the publication of the application for the grant of a breeder's right and the grant of that right. Such measures shall have the effect that the holder of a breeder's right shall at least be entitled to equitable remuneration from any person who, during the said period, has carried out acts which, once the right is granted, require the breeder's authorization as provided in Article 14. A Contracting Party may provide that the said measures shall only take effect in relation to persons whom the breeder has notified of the filing of the application.

CHAPTER V
THE RIGHTS OF THE BREEDERArticle 14Scope of the Breeder's Right

(1) Acts in respect of the propagating material (a) Subject to Articles 15 and 16, the following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:

- (i) production or reproduction (multiplication),
- (ii) conditioning for the purpose of propagation,
- (iii) offering for sale,
- (iv) selling or other marketing,
- (v) exporting,
- (vi) importing,

(vii) stocking for any of the purposes mentioned in (i) to (vi), above.

(b) The breeder may make his authorization subject to conditions and limitations.

(2) Acts in respect of the harvested material Subject to Articles 15 and 16, the acts referred to in items (i) to (vii) of paragraph (1)(a) in respect of harvested material, including entire plants and parts of plants, obtained through the unauthorized use of propagating material of the protected variety shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.

(3) [Acts in respect of certain products] Each Contracting Party may provide that, subject to Articles 15 and 16, the acts referred to in items (i) to (vii) of paragraph (1)(a) in respect of products made directly from harvested material of the protected variety falling within the provisions of paragraph (2), through the unauthorized use of the said harvested material shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said harvested material.

(4) [Possible additional acts] Each Contracting Party may provide that, subject to Articles 15 and 16, acts other than those referred to in items (i) to (vii) of paragraph (1)(a) shall also require the authorization of the breeder.

(5) [Essentially derived and certain other varieties] (a) The provisions of paragraphs (1) to (4) shall also apply in relation to

(i) varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,

(ii) varieties which are not clearly distinguishable in accordance with Article 7 from the protected variety and

(iii) varieties whose production requires the repeated use of the protected variety.

(b) For the purposes of subparagraph (a)(i), a variety shall be deemed to be essentially derived from another variety ("the initial variety") when

(i) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety,

(ii) it is clearly distinguishable from the initial variety and

(iii) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(c) Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

Article 15 Exceptions to the Breeder's Right

(1) [Compulsory exceptions] The breeder's right shall not extend to

(i) acts done privately and for non-commercial purposes,

(ii) acts done for experimental purposes and

(iii) acts done for the purpose of breeding other varieties, and, except where the provisions of Article 14(5) apply, acts referred to in Article 14(1) to (4) in respect of such other varieties.

(2) [Optional exception] Notwithstanding Article 14, each Contracting Party may, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, restrict the breeder's right in relation to any variety in order to permit farmers to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting,

Attorney Docket No. 1334

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Mario R. Carlone Jr. and Date: Dec. 10, 2002
Stephen W. Noble Jr.
Serial No.: 09/758,802 Group Art Unit: 1638
Filed: January 11, 2001 Examiner: David T. Fox
For: "INBRED MAIZE LINE PH581"

Assistant Commissioner for Patents
Washington, D.C. 20231

RULE 132 DECLARATION
OF
DR. STEPHEN SMITH

Sir:

I, Stephen Smith, PhD., do hereby declare and say as follows:

1. I am skilled in the art of the field of the invention. I have a Ph.D. in Biochemical Systematics and Taxonomy of Maize and its Wild Relatives from Birmingham University. I have a M.Sc. in the Conservation and Utilization of Plant Genetic Resources from Birmingham University. I have a Bachelor of Science degree in Plant Sciences from London University. Since 1977 I have been engaged in the development, study and application of molecular markers to genetics, measuring genetic diversity and tracking pedigrees. I commenced this work at North Carolina State University as a post-doctoral research fellow. I have continued my engagement in these studies during my employment by Pioneer Hi-Bred from 1980 until the present. These studies have resulted in numerous scientific articles that have appeared in peer reviewed scientific literature.
2. I have read and understood the Office Action in the above case dated October 11, 2002. This declaration is in response to the Examiner's rejection under, 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over 87DIA4 as described in Johnson (U.S. Patent No. 5,824,849).
3. I have conducted an analysis of SSR marker data for inbred PH581 and the inbred cited as prior art, 87DIA4. Out of a total of 78 SSR loci examined, which allowed a sampling of each chromosome, there are 55 markers that show differences between PH581 and 87DIA4. This represents a difference for 71% for the markers tested. Of

Appendix G

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these 55 markers, 26 were greater than 50 cM in distance, or unlinked on the genetic map.

4. Upon crossing PH581 to any other maize line and selfing successive filial generations, one would within the realm of what is statistically possible, obtain a progeny inbred maize line that retains genetic contribution from PH581. Assuming that (i) the cited prior art is used as the maize line to which PH581 is crossed, (ii) that the only difference between PH581 and 87DIA4 are these 55 markers, and (iii) that all markers within a 50 cM distance will segregate together, then the odds of obtaining a PH581 progeny inbred that is the same as 87DIA4 after one cycle of breeding, is 1 in 2^{28} or 1 in 67,108,864. Statistically it is extremely unlikely that a PH581 progeny, after one cycle of breeding, would be the same as 87DIA4.

5. Further, the assumptions made above vastly overstate the likelihood of breeding PH581 from 87DIA4. For example, it is common practice in quantitative genetics to determine the relation of plants by differences in markers. In doing so, one extrapolates that a percentage difference in markers is indicative of a difference in the whole genome. To assume that the only differences between PH581 and 87DIA4 are for these 55 markers, when 55 markers constitute 71% of the 78 SSR loci examined, is a gross and unrealistic assumption. Further the current maize genetic map only has approximately sixty 50cM units, so by applying this limitation the maximum number of independently segregating loci one could obtain, using the most different maize lines that could ever be found, is sixty. These assumptions result in an over estimate of the odds of breeding PH581 from 87DIA4.

6. Given the difference in molecular markers between PH581 and 87DIA4, it is my expert opinion that PH581 and 87DIA4 are very distinct inventions. It is also my expert opinion that, within the realm of what is statistically possible, any progeny of PH581 developed through crossing PH581 with another plant will be distinct from 87DIA4. Given the facts and based on my education and scientific experience, I believe that the invention as claimed is not obvious nor anticipated by 87DIA4 as described in Johnson (U.S. Patent No. 5,824,849).

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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PIONEER HI-BRED DSM

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Date: Dec 11th 2002 By: Stephen Smith

Stephen Smith